

**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending the Directive establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms'**

(COM(2003) 403 final — 2003/0173 (COD))

(2004/C 80/18)

On 1 September 2003 the Council decided to consult the European Economic and Social Committee, under Article 175(1) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 November 2003. The rapporteur was Ms Le Nouail-Marlière.

At its 404th plenary session of 10 and 11 December 2003 (meeting of 11 December 2003), the European Economic and Social Committee adopted the following opinion unanimously.

## 1. Introduction

1.1. The United Nations Framework Convention on Climate Change (UNFCCC) was signed by 154 countries at the Earth Summit in Rio in June 1992. It came into effect on 21 March 1994 and represents a concerted effort to tackle global warming occurring as a result of human-induced (anthropogenic) climate change. Its ultimate objective is the 'stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner' <sup>(1)</sup>.

1.2. The Kyoto Protocol (KP) to the UNFCCC was adopted in December 1997 at the 3rd session of the Conference of the Parties (COP) in Kyoto, Japan. To date, 119 countries responsible for 44,2 % of carbon dioxide (CO<sub>2</sub>) emissions including the EC and its Member States, as well as most of the applicant countries, have ratified it.

1.3. To enter into force, the Kyoto Protocol needs to be ratified by at least 55 countries responsible for more than 55 % CO<sub>2</sub> emissions from industrialised countries in 1990. The United States withdrew from the protocol in 2001 although their emissions are increasing and make up 25 % of total global emissions. Despite the efforts to achieve this objective before the Johannesburg summit in August 2002, the protocol has not yet entered into force.

1.4. The EU is committed to reducing its collective emissions of greenhouse gases by 8 % below its emissions level in 1990 in the 2008-2012 period. However, total greenhouse gas emissions in the EU are expected to fall by 4,7 % from

1990 to 2010 assuming adoption and implementation of current measures, leaving a shortfall of 3,3 % compared with the target of 8 % reduction. If the EU is to achieve its Kyoto target, substantial further action and additional policies are needed. In 1998 the EU Member States adopted the 'burden-sharing agreement' in which they agreed to internally distribute the collective EU reduction obligation of 8 %. The EU ratified the Kyoto Protocol at the Council meeting of 4 March 2002 pursuant to Council Decision 2002/358/EC <sup>(2)</sup>. The Member States completed their national ratification procedures on 31 May 2002.

1.5. In order to encourage and facilitate the implementation of their emission reduction commitments, so-called flexible mechanisms were created with a view to promoting the achievement of emissions reductions in a cost-effective way. These flexible mechanisms are: Emissions Trading, Joint Implementation, and the Clean Development Mechanism (encouraging sustainable development and cooperation between developed countries and developing countries).

1.6. While the implementation of the three flexible mechanisms at international level will only become possible once the Kyoto Protocol comes into force, the EU is moving ahead with its own internal emissions trading system which will start in January 2005 <sup>(3)</sup>.

<sup>(2)</sup> Decision 2002/358/EC of 25 April 2000 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder (OJ L 130, 15.5.2002, p. 1), comprising the protocol and its annexes. EP Report A5-0025/2002 on the proposal of the Council relating to the above decision.

<sup>(3)</sup> Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, OJ L 275, 25.10.2003, p. 32-46.

<sup>(1)</sup> Article 2 UNFCCC.

1.7. This proposal complements the directive 'in respect of the Kyoto Protocol's project mechanisms', i.e. the two other flexible mechanisms in addition to emissions trading, which aim to reduce the cost and the macroeconomic impact of the protocol's implementation.

1.8. The Kyoto Protocol allows developed countries to use emission credits generated through the so-called Kyoto project-based mechanisms, namely Joint Implementation (JI, for projects taking place in developed countries) and the Clean Development Mechanism (CDM, for projects in developing countries), to partly meet their emission reduction targets. Emission credits can only accrue if the emission reductions achieved through the project are additional to what would have happened in the absence of the activity (environmental additionality). JI and CDM projects are primarily to be driven by the private sector. The CDM has the two-fold goal of both contributing to the ultimate objective of the UNFCCC and assisting developing countries in achieving sustainable development. The CDM will be supervised by an Executive Board, which was established at COP7.

1.9. Already now, before the Kyoto Protocol enters into force, project-based activities can be eligible under the CDM and generate credits. These credits will have a value since governments can purchase them to meet their Kyoto targets or companies can use them to fulfil their domestic obligation to reduce emissions at lower cost. This makes the CDM an economic incentive for greening Foreign Direct Investment. As such, and taking account the environmental additionality requirement laid down by the Kyoto Protocol, the CDM is expected to be a good vehicle for the transfer of clean and modern technologies in developing countries while delivering real development benefits.

1.10. The Commission's proposal takes into account the obligation for Parties to the Kyoto Protocol to achieve a significant part of their Kyoto targets through emission reductions in the European Union, so that the use of the Kyoto flexible mechanisms is supplemental to domestic efforts as formalised by the burden sharing agreement which sets out different commitments for the Member States and accession countries. It therefore envisages the triggering of a review once JI and CDM project credits equivalent to 6 % of the total quantity of allowances issued for the trading period 2008-2012 enter the emissions trading scheme. If and when triggered, this review will consider placing a limit on the credits that can be converted during the remainder of the trading period.

## 2. General comments

2.1. The EESC confirms its unconditional support for the ratification and implementation of the Kyoto Protocol. The Committee reiterates that it welcomes the draft directive on greenhouse gas emissions trading as it 'will help to achieve — at the lowest possible cost and with the lowest impact on the economy and employment in the European Union — the national commitments to reduce greenhouse gases provided for in the Kyoto Protocol, which also provides for direct emissions trading between Member States' <sup>(1)</sup>. The EESC also stresses 'the importance of updating the EU's monitoring system for Community greenhouse gas emissions and implementing the Kyoto Protocol if it wants to work actively towards accessions to and ratifications of the Kyoto Protocol, in the context of pan-European environmental cooperation' <sup>(2)</sup>.

2.2. The Committee is concerned about the general slow progress in implementing the UN Framework Convention on Climate Change and the Kyoto Protocol in particular, as drastic action is needed in view of the fact that the planet's thermic inertia means that decades would be required to significantly check warming.

2.3. The Kyoto Protocol has not yet entered into force with the effect that different countries are adopting different regimes for its implementation. These include varying methods for monitoring, reporting and verification as well as trading. Nevertheless countries have taken on commitments despite the delay in ratification. EU Member States use a common system that corresponds to the Kyoto Protocol.

2.4. The EESC supports the Commission's initiative and asks (the most) important global players to ratify the Kyoto Protocol.

2.5. The EESC believes that it should be possible to convert credits into allowances for the period 2005-2007. This would send a positive signal and could advance the development of future projects that would provide considerable environmental, social and economic benefits.

<sup>(1)</sup> EESC Opinion 680/2002 of 29 May 2002 on the Proposal for a Directive of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, COM(2001) 581 final — 2001/0245 (COD), OJ C 221, 17.9.2002, p. 27-30.

<sup>(2)</sup> EESC Opinion 931/2003 of 16 July 2003 on the Proposal for a Decision of the European Parliament and of the Council for a monitoring mechanism of Community greenhouse gas emissions and the implementation of the Kyoto Protocol, COM(2003) 51 final — 2003/0029 (COD), OJ C 234, 30.9.2003, p. 51.

2.6. The Committee believes that the Commission should explain the concepts of JI and CDM to the players involved (in particular the sectors that will implement the mechanisms and projects) more effectively than has been done in the past, giving clear information about possibilities and limitations. The Committee does not consider the activities of the Member States to date to have been adequate. The recitals and definitions, in addition to the extensive use of abbreviations and acronyms, make the text unclear (what does this relate to, who is concerned, in which countries).

2.7. The Commission should standardise its terminology, e.g. *mise en oeuvre conjointe/application conjointe* and *MOC/MC* in the French versions of <sup>(1)</sup>.

2.8. The EESC supports the use of emission credits generated through Joint Implementation mechanisms (JI) for projects taking place in developed and transition countries, and the Clean Development Mechanism (CDM) for projects in developing countries, as instruments to speed up technological developments that will reduce carbon emissions and benefit both developing and developed countries.

2.9. With regard to the coherence of Community policies, the Committee notes the Commission proposal for an action plan on climate change in the context of development cooperation and the contribution of the fifth framework programme for research <sup>(2)</sup>.

2.10. However, the Committee is concerned that the Kyoto mechanisms may only result in a short-term reduction of CO<sub>2</sub> emissions, which is not compatible with long-term sustainable development.

2.10.1. It is therefore vital to consider energy efficiency at least as much as the mix of resources and the diversification of supply.

2.10.2. Increasing the use of natural gas (CH<sub>4</sub>) in electricity production would be an economically attractive means of reducing CO<sub>2</sub> emissions. Like oil, natural gas is a potential source of fuel production in the transport sector. However, available information indicates that the known reserves of this resource are more limited than those of other potential sources for the production of electricity, such as coal, nuclear power and renewable energy.

<sup>(1)</sup> COM(2003) 85, COM(2003) 403, MEMO/03/154.

<sup>(2)</sup> Communication from the Commission to the Council and the European Parliament 'Climate Change in the Context of Development Cooperation', COM(2003) 85 final, Annex I: Action plan and Annex VI: Climate change relevant projects financed under the fifth framework programme for research.

2.10.3. When oil and natural gas are no longer available, they will have to be replaced by hydrogen. But its production (for instance by electrolysis) requires twice as much primary energy as it provides. The consequences for energy — and the climate — would be even more serious than today.

2.10.4. In addition, losses during exploitation, transport and use need to be examined carefully when using natural gas as it has a 30 times greater effect on the climate than CO<sub>2</sub>.

### 3. Specific comments

#### Art. 11(bis)(2)

3.1. The EESC is well aware that the credits generated through Joint Implementation (JI) and Clean Development Mechanisms (CDM) projects which are converted into allowances for use in the emissions trading scheme are limited by the Kyoto Protocol, as JI and CDM projects can only supplement national efforts, not replace them. However, the Committee advises the Commission to take account of:

- the complexity and slow implementation of the Kyoto Protocol (1997) and the Marrakech Accords (2001) (7<sup>th</sup> Conference of the Parties), which were drawn up by the United Nations Framework Convention on Climate Change and adopted in Rio in 1992;
- the lack of available projects at the moment and the slow process of project approval;
- the need to make these flexible instruments an incentive to speed up technological developments and fair transfers of technology;
- the minimal contribution of the reduction in greenhouse gas emissions covered by the Kyoto Protocol (3 % of the effort necessary to check the warming process);
- the duration of the proposed directives, apart from the opening of negotiations on later commitment periods of the Kyoto Protocol scheduled to begin in 2005;
- coherence with the European Programme on Climate Change and the Sixth Environmental Action Programme which promote emissions reductions;

- readability and the message conveyed to potential actors (public or private) as well as the need for a clear and positive message with a view to the ratification of the Kyoto-Protocol by third countries;
- the consideration of the different commitments of Member States under the Kyoto Protocol;
- the conclusion of a 'burden-sharing agreement' between EU Member States including the accession countries.

*Art. 11(bis)(3)*

3.2. Without calling the Kyoto Protocol into question, the Committee stresses that the delay in implementing the Kyoto Protocol and the negotiation commencing in 2005 of the commitment period after 2012 mean the LULUCF should not be systematically excluded from the scope of the application of the project-based mechanism. The Community should be ready to implement the agreement on how LULUCF credits should be treated which is expected at COP-9 (Milan — December 2003).

3.3. The temporary aspect discussed in the Kyoto Protocol still raises issues of national sovereignty, land use and sustainable management adapted to local circumstances; so much so that no world convention on forests exists.

Brussels, 11 December 2003.

*Art. 11(ter)(5)*

3.4. Despite the reference to compliance with Articles 6 and 12 of the Kyoto Protocol, which are vague about this issue, the Committee proposes amending this clause to read: 'transfer of environmentally safe and sound technology and know-how adapted to developing countries and countries with economies in transition', and defining 'environmentally safe and sound know-how'.

*Art. 21 — Paragraph 3 is replaced by the following (point 7(b) of the proposal)*

3.5. In addition to 'the organisation by the Commission of an exchange of information between the competent authorities of the Member States concerning developments relating to issues of allocation, the conversion of emission reduction units (ERU) and certified emission reductions (CER) for use in the Community scheme, the operation of registries, monitoring, reporting, verification and compliance', it would be appropriate to inform NGOs 'deemed to have an interest', social partners and the public at large, in accordance with the Aarhus Convention (1998) on public access to the decision-making process and access to justice in matters concerning the environment, as well as submitting a regular report to the European Parliament, the Committee of the Regions and the EESC.

*The President*

*of the European Economic and Social Committee*

Roger BRIESCH

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