

## Guidelines for MRG: EIGA Opinion on CO<sub>2</sub> transfer

With reference to the review of the **Guidelines for Monitoring and Reporting of Greenhouse Gases** (“Guidelines for MRG”), the European Industrial Gases Association (EIGA) has developed an industry consensus on the topic of **Transferred CO<sub>2</sub>**, as addressed in Section 5.7 of the Commission decision 2007/589/EC of 18 July 2007.

### Summary of Position

**After positive consultation with the European Commission in September 2010, EIGA supports the intent of the Commission to reduce the list of potential applications within the rules of CO<sub>2</sub> transferred to capture, transport and storage installations, and urges Member states to support this approach in the current revision of the MRG guidelines in order to allow a clarification of the CO<sub>2</sub> transferred rules and their consistent application across the EU.**

### Current status on the revision of rules applying to CO<sub>2</sub> transfer

Section 5.7 of the MRG guidelines gives guidance for the reporting of emissions associated with the transfer of CO<sub>2</sub> offsite for other purposes (either as a pure substance or bound in products, etc.). This section was reviewed in June 2010 in order to allow CO<sub>2</sub> capture and storage operations, in application of the directive on geological storage of CO<sub>2</sub> adopted on the 23<sup>rd</sup> of April 2009.

The European Commission will review the MRG guidelines in order to include new sectors and new greenhouse gases, in application of the review of the EU ETS directive.

### Issues identified under the current wording

EIGA understands that the intent of the EU language in the MRG guidelines would be to allow a deduction for transfers of CO<sub>2</sub> emissions out of a facility only when these CO<sub>2</sub> emissions are either:

- (i) permanently sequestered or stored; or
- (ii) transferred to an entity and/or sector where the accounting for these emissions is controlled within an emissions inventory plan of a Member State.

EIGA is therefore concerned that the current MRG guidelines allow a subtraction from overall emissions to be taken for volumes of CO<sub>2</sub> which are transferred out of a facility within the ETS domain and into a separate facility, whether or not the latter is within the ETS domain. In addition the current MRG guidelines appear to treat CO<sub>2</sub> transferred to short term storage for eventual release to the atmosphere in the same manner as permanent sequestration.

This situation implies **potential market distortions** as follows:

- **A risk of CO<sub>2</sub> leakage between ETS installations and non-ETS installations** (if the cost of emission in the ETS cap and trade scheme is inconsistent to the cost of the corresponding transferred emission in the non-ETS carbon tax scheme);
- **A potential abuse due to the lack of harmonization of rules between Member states** (e.g. potential CO<sub>2</sub> exportation from a Member state allowing deduction of CO<sub>2</sub> transferred to a non ETS merchant installation in a Member state not applying the same rule);

- **A lack of inventory integrity leading to a competitive distortion between sectors** when the CO<sub>2</sub> transferred to short-term storage facilities is eventually released to the atmosphere and not accounted for in the national inventory.

### **EIGA Recommendations**

EIGA therefore believes that the MRG guidelines should specifically prohibit subtraction of emissions related to the transfer of CO<sub>2</sub> from the ETS to the non ETS domain for short term storage and later use and should ensure that downstream CO<sub>2</sub> is accounted as emitted in the production process.

EIGA has presented its views to the European Commission, and has achieved a common understanding on the issue.

In order to achieve a clear principle within the MRG guidelines, EIGA is proposing an amendment to the text (see below), by reducing the list of potential applications in order to limit it to capture installations, transport networks and storage sites. This supports the Commission's desire to simplify the text.

**However, EIGA remains concerned that the clarification of the CO<sub>2</sub> transferred rules may not be undertaken under the current revision of the MRG guidelines, and fears that the resolution of this issue could be delayed until the adoption of a regulation in 2011.**

The current MRG guidelines will have an impact on the ETS post 2012 allocation rules and on the drafting of the new inventory rules undertaken by the Member states. A delay until the adoption of a regulation in 2011 would have the following negative consequences:

- It would maintain an uncertainty on the regime of CO<sub>2</sub> transferred, potentially leading into risks of **market distortion** and abuse as identified above;
- It would create **inconsistency** between the preliminary free allowance allocated to the installations and their effective emissions;
- It would induce an **unnecessary burden on Member states** in their modification of their legal frameworks.

**EIGA therefore strongly supports the inclusion of an amendment in the current revision of the MRG guidelines and urges Member states to support the intent of a clarification of the rules applied to CO<sub>2</sub> transferred.**

**Proposed Amendments to the MRG Guidelines****“COMMISSION DECISION 2007/589/EC of 18 July 2007**

**establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council**

**as amended by COMMISSION DECISION 2009/73/EC amending Decision 2007/589/EC as regards the inclusion of monitoring and reporting guidelines for emissions of nitrous oxide of 17 December 2008**

**as amended by COMMISSION DECISION 2009/339/EC amending Decision 2007/589/EC as regards the inclusion of monitoring and reporting guidelines for emissions and tonne-kilometre data from aviation activities of 16 April 2009**

**as amended by COMMISSION DECISION 2010/...../EC amending Decision 2007/589/EC as regards the inclusion of monitoring and reporting guidelines for greenhouse gas emissions from the capture, transport and geological storage of carbon dioxide of dd.mm.2010**

**Including updates proposed for inclusion of new activities and GHG following the EU ETS review – Version of 13 April 2010**

**(Text with EEA relevance)**

**5.7 Transferred CO<sub>2</sub>**

Subject to approval by the competent authority, the operator may subtract from the calculated level of emissions of the **ETS** installation any CO<sub>2</sub> which is not emitted from the installation, but transferred out of the installation **to another ETS installation**:

- as pure substance, or directly used and bound in products or as feedstock, unless other requirements as set out in Annexes XIX to XXII apply, or
- to another installation holding a greenhouse gas emissions permit, unless other requirements as set out in Annexes XVII or XVIII apply,

provided the subtraction is mirrored by a respective reduction for the activity and installation, which the respective Member State reports in its national inventory submission to the Secretariat of the United Nations Framework Convention on Climate Change. The respective amounts of CO<sub>2</sub> shall be reported for each installation CO<sub>2</sub> has been transferred to or received from as a memo item in the annual emission report of the transferring as well as the receiving installation.

In the case of transfer to another installation, the receiving installation must add to its calculated level of emissions the received CO<sub>2</sub>, unless other requirements as set out in Annexes XVII to XXII apply.

**In the case of transfer from an ETS installation to another installation not falling under the ETS Directive, the corresponding CO<sub>2</sub> volumes shall be treated as emitted CO<sub>2</sub> by the ETS installation, with the exception of specific uses identified and approved by the Commission and included in the accounting of all national inventories. These uses shall result in demonstrated CO<sub>2</sub> emission reductions.**

Respective transferring as well as receiving installations shall be notified by Member States to the

Commission pursuant to Article 21 of Directive 2003/87/EC. In case of transfer to an installation falling under that Directive, the transferring installation shall identify the receiving installation in its annual emission report by stating the receiving installation's installation identification code as defined by the Regulation pursuant to Article 19 of that Directive. The receiving installation shall identify the transferring installation through the same approach.

Potential cases of transferred CO<sub>2</sub> out of an installation include, inter alia:

- ~~— pure CO<sub>2</sub> used for the carbonation of beverages;~~
- ~~— pure CO<sub>2</sub> used as dry ice for cooling purposes;~~
- ~~— pure CO<sub>2</sub> used as fire extinguishing agent, refrigerant or as laboratory gas;~~
- ~~— pure CO<sub>2</sub> used for grains disinfestations;~~
- ~~— pure CO<sub>2</sub> used as solvent in the food or chemical industry;~~
- ~~— CO<sub>2</sub> used and bound in products or feedstocks in the chemical, pulp industry (e.g. for urea or precipitated carbonates);~~
- ~~— carbonates bound in spray dried absorption product (SDAP) from semi-dry scrubbing of flue gases;~~
- CO<sub>2</sub> transferred to capture installations;
- CO<sub>2</sub> from capture installations transferred to transport networks;
- CO<sub>2</sub> from transport networks transferred to storage sites.

Unless other requirements in the activity specific Annexes apply, the mass of annually transferred CO<sub>2</sub> or carbonate shall be determined with a maximum uncertainty of less than 1,5 % either directly by using volume or mass flow meters, weighing or indirectly from the mass of the respective product (e.g. carbonates or urea) where relevant and if appropriate.

In case the amounts of transferred CO<sub>2</sub> are measured both at the transferring and at the receiving installation, the amounts of respectively transferred and received CO<sub>2</sub> shall be identical. If the deviation between measured values is in a range, which can be explained by the uncertainty of the measurement systems, the arithmetic average of both measured values shall be used in both the transferring and receiving installations' emission reports. The emission report shall include a statement that this value has been aligned with the value of the respectively transferring or receiving installation. The measured value shall be included as memo item.

In case the deviation between the measured values cannot be explained by the uncertainty range of the measurement systems, the operators of the installations involved shall align the measured values by applying conservative adjustments (i.e. avoiding under-estimation of emissions). This alignment shall be verified by the verifiers of the transferring and receiving installations, and be subject to approval by the competent authority.

In instances, in which part of the transferred CO<sub>2</sub> was generated from biomass, or whenever an installation is only partially covered by Directive 2003/87/EC, the operator shall subtract only the respective fraction of mass of transferred CO<sub>2</sub> which originates from fossil fuels and materials in activities covered by the Directive. Respective attribution methods shall be conservative and are subject to approval by the competent authority.

In case a measurement approach is applied at the transferring installation, the total amount of

transferred/received CO<sub>2</sub> resulting from biomass use shall be reported as a memo-item by both the transferring and receiving installation. The receiving installation shall not be required to conduct its own measurements for this purpose, but report the amount of biomass CO<sub>2</sub> as obtained by the transferring installation.”

### **Advantages of the proposed solution**

The solution proposed in EIGA amendments provides the following advantages:

- It allows legal certainty and avoids potential allocation distortions;
- It allows the EU ETS to keep track of all CO<sub>2</sub> generated from the different ETS sectors;
- It is fully in line with the UNFCCC 2006 Guidelines, and would not require interpretation of a Competent Authority or development of Member State regulations or carbon taxation for clarity of treatment;
- It provides a logical solution, and ensures that any emissions transferred, which will eventually be released into the atmosphere, are accurately monitored and reported (and accounted for) by the party which produces the emissions.
- Especially for the Industrial Gas (IG) sector, this solution would ensure that:
  - Equality of treatment between existing CO<sub>2</sub> facilities, new CO<sub>2</sub> facilities and between CO<sub>2</sub> facilities in and outside the ETS (post 2013) would be maintained;
  - Equality of treatment for transfer of CO<sub>2</sub> emissions into the IG sector would be maintained across national borders, as the majority of transferred CO<sub>2</sub> into the IG sector would be accounted for within the ETS system, and would not fall under the emissions inventory plans of the individual Member States;
  - In addition, the issuance of any free allocations or allowances would be independent of whether or not product would be transferred off-site to the IG sector. In essence, the ETS emitter would have no financial advantage or disadvantage for the transfer of CO<sub>2</sub> emissions off-site into the IG sector, and therefore would only be incentivized by the business arrangements between the IG sector and the emitter for the off-take of raw CO<sub>2</sub> gas – identical to the situation as it is today.

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