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Implementing the Kyoto Protocol: Carbon Dioxide Tax and Emissions Trading

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Climate change is increasingly considered a serious and controversial issue for global society. Thus, in 1997, industrialized countries signed the Kyoto Protocol in order to cope with the severe problems associated with climate change by enacting national legal provisions based on international and democratic rules and the principles of the free market economy.

Context and Purpose of the Kyoto Protocol

The Kyoto Protocol was negotiated in 1997 and binds several industrialized countries. It aims to reduce collective emissions of greenhouse gases such as carbon dioxide, methane, nitrogen oxide, sulphur hexafluoride, hydrofluorocarbons and perfluorocarbons. By 2012, Switzerland – a signatory state of the Kyoto Protocol – must have lowered its greenhouse gas emissions by 8% compared to 1990 levels.

The protocol sets forth specific steps which each member state must take in order to achieve certain reduction objectives in the period between 2008 and 2012. In order to fulfil this international obligation successfully and efficiently, national authorities must implement specific Kyoto provisions, for example taxation on carbon dioxide emissions, and allow the trading of emissions rights and certificates.

Carbon Dioxide Tax

On May 1 2000 the Federal Statute on the Reduction of Carbon Dioxide emissions entered into force. The statute stipulates that the reduction of greenhouse gases is to be achieved primarily by implementing energy and traffic-related measures, in combination with other environmental, fiscal and voluntary measures. The statute states that where these measures prove to be insufficient, the authorities are authorized to impose a carbon dioxide tax on fossil fuels. Thus, a tax on carbon dioxide came into effect on January 1 2008 and is charged on the production and import of coal and other fossil fuels. This tax has led to increases in energy expenses for companies and households.

The statute allows the exemption of companies from the carbon dioxide tax if their business requires the use of large amounts of fossil fuels or if the payment of the carbon dioxide tax affects their international competitiveness, provided that the concerned company undertakes to limit its emissions of greenhouse gases. Such a commitment may be entered into by large companies, energy-intensive companies and groups of fossil fuel consumers that have banded together.

To apply for an exemption from the carbon dioxide tax, a request must be filed with the Federal Office for the Environment including a detailed proposal for emissions reduction during the period from 2008 to 2012 and certain information regarding the company. If the legal requirements for an exemption are met the concerned company is entitled to a reimbursement of the paid carbon dioxide tax. According to the Federal Ordinance on the Carbon Dioxide Tax, a request for a reimbursement must be filed with the Federal Directorate General of Customs. In addition, tax-exempt companies obtain emissions rights distributed by the Environment Office.

Companies that are exempt from the carbon dioxide tax are obliged to disclose information on carbon dioxide emissions to the Environment Office and to private agents supporting the authority in the enforcement of the statute. Companies that do not meet the agreed reduction targets must repay any reimbursed carbon dioxide tax,

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including interest, to the directorate which is responsible for enforcement of the ordinance.

Nevertheless, the main competence with regard to exemptions from the carbon dioxide tax and the distribution of emissions rights remains with the Environment Office. Since 2008 the office has exempted some 900 companies from various industrial sectors, including the cement, paper, cardboard, glass, ceramics, metal and mechanical engineering, plastics and food industries. Applications for carbon dioxide tax exemption continue to be accepted.

Emissions Rights and Emissions Certificates

Companies that are exempt from the carbon dioxide tax obtain emissions rights for the amount of their agreed emissions of carbon dioxide. To ensure greater flexibility, the Kyoto Protocol provides for two additional international instruments: (i) joint implementation and (ii) the Clean Development Mechanism. Whereas joint implementation aims to reduce greenhouse gas emissions in industrialized countries, the Clean Development Mechanism is designed to lower emissions in developing countries. According to the protocol, signatory states are entitled to claim emissions credits on foreign investments which lead to a reduction in greenhouse gas emissions abroad. Specific emissions certificates are issued for such emissions credits.

The Federal Ordinance on Carbon Dioxide Allowances governs foreign investments made by Swiss companies with regard to emissions. According to the ordinance, the Environment Office registers emissions reductions resulting from joint implementation and clean development, and records the certificates in the national register and credits them to the federal account.

Emissions rights and emissions certificates are subject to emissions trading between the protocol's signatory states and between individual companies. Signatory states may sell these rights and certificates to other signatory states that are unable to comply with the protocol's reduction objectives.

Companies are the main participants in the privately organized emissions trading market. Companies that exceed their binding emissions reduction target must acquire additional emissions rights or certificates from other companies in order to fulfil their emissions obligations to the Environment Office. Companies who reduce their emissions by more than their emissions reduction target may sell their surplus emissions rights and certificates.

If a company's business ceases, its emissions rights and certificates are no longer tradable on the market. On being informed of a company's closure, the Environment Office blocks the concerned account and revokes the emissions rights.

Emissions Trading Register

The Kyoto Protocol obliges all signatory states to establish a standardized electronic database that serves as a national register to ensure the accurate distribution, transfer, acquisition, deletion and appreciation of emissions rights and certificates. The national register is a requirement of participation in the international trading of emissions rights and certificates. The register is essentially comparable to a land register.

According to the ordinance, the Federal Department of Environment, Transport, Energy and Communications is responsible for the enactment of provisions regarding the national register. Companies wishing to obtain and trade emissions rights and certificates must open an account with the Environment Office, which is the authority in charge of monitoring the register.

The register exists only in electronic form and contains two types of account for all participants in emissions trading. First, companies that obtain emissions rights from the Environment Office must hold an operator's account enabling them to sell emissions rights to other companies that emit greenhouse gases in excess of their reduction objective. Second, other companies and private persons that do not obtain emissions rights but want to trade in such rights and certificates may hold a personal account. Although the Environment Office supervises and monitors the register and compliance with the applicable laws, the trading itself is organized on a private basis.

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