

to: Margot Wallström, Environment Commissioner

cc: Jos Delbeke, Artur Runge-Metzer and Peter Vis (DG Env., Directorate C: Air and Chemicals)

Ljubljana, 6th May 2004

subject: **Comments to the proposed National Allocation Plan of Slovenia (NAP)**

After carefully reviewing the proposed NAP, the signed environmental NGOs have the following comments:

### **overall cap**

According to the NAP, the formation of the overall cap is based on the Operational Plan for GHG Emissions Reduction (OP GHG), which the Government of Slovenia adopted in 2003. The environmental NGO community of Slovenia has expressed serious doubts about the quality of the OP GHG and the possibility of implementing it. The main points of concern about NAP being constructed on the basis of OP GHG are:

- In spite of carefully reviewing the OP GHG it is not possible to establish how the overall quantity of the emission allowances is in line with the OP GHG. The figures that are presented on the OP GHG are given either for the whole sectors (including both trading and non-trading sectors) or for all the GHGs (no specifications of CO<sub>2</sub> figures). Therefore it is not possible to conclude on the basis of OP GHG what the overall cap for emission trading sectors could be. NAP also claims that each sector gets precisely as much as the OP GHG balance plans for it, while in the OP GHG there is no such balance shown.
- NAP shares the burden between the industry sector and the power generation sector on the basis of 'sector factors' from the OP GHG. Those factors cannot be found in the OP GHG.
- Where it is possible to find some specific figures in the OP GHG, those show that NAP is not in line with OP GHG. For example, OP GHG predicts (on the basis of expert studies that were prepared for the new National Energy Programme) that CO<sub>2</sub> emissions arising from electricity production should be 5.2 Mt of CO<sub>2</sub> in 2005 and 4.7 Mt of CO<sub>2</sub> in 2008, while according to NAP, electricity producers will be allocated allowances for about 6.1 Mt of CO<sub>2</sub> annually. Also in the case of base emissions there are discrepancies between the OP GHG and NAP: OP GHG shows that in the year 2000 the electricity producers had about 5.5 Mt of CO<sub>2</sub> emissions, while NAP shows 6.5 Mt CO<sub>2</sub> as the average number for 1999-2002. Because of such discrepancies we demand that the data sets for CO<sub>2</sub> emissions are presented publicly. The data on the basis of which the amount of CO<sub>2</sub> tax for the companies was

defined is not publicly available and neither is the data on the emissions of CO<sub>2</sub> for years 1999–2002. We also call for presenting the exact method of 'translating' the OP GHG into NAP.

- NAP claims that the potentials for reductions have been taken into consideration on the basis of OP GHG. However, OP GHG does not explicitly specify the potentials for reductions in the trading sectors. Therefore we believe that NAP should specify the potentials of the trading sectors for reducing the CO<sub>2</sub> emissions – only in such a way it will be possible to see if the proposed allocation is in line with the objectives and the potentials.

- The overall amount of allowances is too high for the emission trading to be a tool for reaching the Kyoto objective. The NAP says that the emissions of the trading sectors represent 60% of all the CO<sub>2</sub> emissions. The emissions from the transport represent 20% of all the CO<sub>2</sub> emissions. The remaining 20% emissions are attributed to other sectors (commercial, agricultural, waste). Taking into consideration that the OP GHG plans that the transport emissions can grow by 120% and that the commercial sectors emissions can grow by roughly 30%, large cuts will be needed in other sectors. If the NAP demands a 3% cut in emissions of the trading sectors, it means that the non-trading sectors have to achieve at least a 15% cut in their emissions. As the OP GHG plans growth of the large parts of the non-trading sectors emissions, it is highly unlikely that a 3% cut of the trading sector will bring Slovenia to its -8% Kyoto target. Therefore the proposed NAP is not in line with Kyoto Protocol target. We call for at least -8% cut in the trading sectors' emissions of CO<sub>2</sub>.

There are also numerous discrepancies between the first draft and the latest draft of NAP. Here some examples are listed that cannot be an outcome of a political debate:

a) according to the first draft of NAP, the OP GHG predicts emission of CO<sub>2</sub> eqv in the amount of 18 042 Mt in 2012, according to the second, the figure is 18 630 Mt;

b) according to the first version, all the emissions for 2005 – 2007 are predicted to be 44 676 Mt CO<sub>2</sub>, while the second version shows a number of 47 238 Mt CO<sub>2</sub>;

c) the first version claims that the allocated amount of allowances represents 95% of the average emissions from 1999-2002, which is in line with Kyoto and OP GHG. The second version plans to allocate allowances that represent 97% of the 1999 emissions, which is – again – in line with Kyoto and OP GHG. It is very dubious where this stops being in line with Kyoto and OP GHG.

Regarding the formulation of the overall cap, it was observed that the influence of the energy lobbies on the amounts of allowances was too devastating to tolerate. NAP claims (point 3.2) that the historical emissions on which the allocation is based (the emissions from years 1999 – 2002) are collected in line with the Article 14 of the emission trading directive. The version of NAP, which is in Slovene language, also claims that the NAP was done on the basis of the data sets that the MoE keeps from the collection of CO<sub>2</sub> tax (this claim somehow got lost in translation to the English version, however). Yet, none of the data sets is publicly available. Therefore we have strong doubts that the allocation is done on the basis of realistic data. Further on, the very first number of emission allowances for period 2005-2007 amounted to 18 583 735. The second was 24 803 964, while the latest proposed is already 26 329 969. While the first draft proposes to take average 1999 – 2002 emissions for base emissions, the current NAP proposes that the highest emissions in the period 1999 – 2002 should be taken as the basis for allocation. If the first proposed number for allocation allowances was still in line with the base emissions and the Kyoto, then the last proposed number cannot be anymore. Allocation on the basis of the highest emissions in the period 1999 – 2002 can in a lot of cases actually also mean a clear over-allocation. Instead of reducing the emissions of the trading sectors, the proposed NAP gives the trading sectors more emissions than they really need. Therefore we strongly urge the Commission to put pressure on Slovene MoE to form an overall cap that will clearly be in line with the OP GHG, Kyoto Protocol and the real base year(s) emissions!

### **voluntary inclusion of installations**

The proposed NAP offers a possibility that some installations (installations with a rated thermal input between 15 and 20 MW) take a part in the trading on a voluntary basis. However, NAP does not explain what the advantages of such opt-ins are – the explanation, that more trading objects are good for spreading the base for trading cannot be a well established basis for allocation of free emission allowances. It can even be a form of state aid. Although NAP claims that opting in will pose no threats to the competition, this is only true on the EU or international level; within Slovenia it will make it possible for some companies to avoid paying the CO<sub>2</sub> tax. Opting in can also harm the environmental

integrity of the scheme because companies that are at the moment stimulated to reduce emissions because of the CO<sub>2</sub> tax will no longer have that stimulation once they receive free allowances, especially if those are given away quite generously by the government.

Apart from that, the 'technical' aspect of the voluntary opt-ins is not developed by NAP. NAP does not show what amount of the allowances is allocated for the voluntary participants and how it affects the installations that are obligated to be in the trading system. NAP also does not specify what happens in case an installation decides to voluntarily join the trading scheme in e.g. 2006 or leave the trading scheme. We believe that this should be specified in the NAP.

### **early action**

NAP claims that early action is taken into consideration already with the selection of the base period and the BAT method. This is only partially true. If the installation did an early action after 1999, then the proposed NAP can award it. If early action was taken already before 1999, the NAP punishes it. NAP should therefore form a system to award early action, but not through increasing the overall amount of allowances.

### **reserves for new entrants**

Although we welcome the decision of the government to create reserves for new entrants, we are seriously concerned that formation of the reserves in addition to the over-allocated amounts of allowances will be yet another obstacle on the way of reducing the emissions of CO<sub>2</sub>. The reserves should be formed within the overall amount of allowances without this amount growing because of the reserves. Selling of what is left over from the reserves should only be allowed if the reserves are a part of the reduced overall amount of allowances; if they are not, the unused reserves should be completely cancelled.

### **public consultation**

NAP describes the process of 'public consultation'. We would like to stress that the described process was nothing but a far echo of a public consultation. Only the installation operators were included in the process of 'public consultation' and none of the other stakeholders. Public encompasses also other stakeholders than the operators; other stakeholders were not involved in the consultation process. Environmental NGOs are a part of the public, but were not invited or in any way included in the public consultations. The most important part of the 'public consultations' were the individual meetings with the operators. Such meetings could in principle be a part of the public consultation process, but only in case they would be open for the public or their content was publicly known. Since none of that was the case, we believe that the executed meetings with the operators should not be considered as a part of the 'public consultation' process.

When the NAP was open for comments on the web page of the MoE, three environmental NGOs have sent their comments to the MoE. Those comments are not mentioned in the part where the NAP describes how public comments were taken into consideration. The letter of the NGOs was never answered, nor were the NGOs given an opportunity to give their comments in a public debate or a meeting with the MoE.

MoE has clearly been submitted to the electricity and coal lobby, not surprisingly, as the state is also the majority (80%) owner of relevant enterprises. MoE and the Government also have accumulated a disgraceful record of lack of communication with NGO, formally also witnessed by the termination of a Partnership Agreement between the MoE and the environmental NGO community, as of December 31<sup>st</sup> 2003. The proposed NAP is mainly a product of active lobbying behind closed doors and not a transparent and publicly supported document. We call upon the Commission to reject the claim of the Government of Slovenia that it has conducted a public consultation as required in the Emission Trading Directive and to reprimand the Government of Slovenia on this issue. It should be demanded from the Slovene government to take the comments of the public into consideration at an equal level as the comments of the operators through a transparent process of public consultations. Apart from that, the data sets of base emissions and CO<sub>2</sub> tax basis should be presented to the public.

## **subsequent periods**

NAP does not describe how the allocation will be executed in the second trading period (2008-12). To enable a better planning basis for the trading installations the current NAP should give some indications on how the allowances will be allocated in the second period. This will create a more predictable environment for the future planning of the companies.

Emission trading was formed as one of the tools to reduce the GHG emissions in a cost-effective way. On the basis of the proposed NAP for Slovenia we are strongly concerned that in Slovenia emission trading will become just another way of supporting the outdated energy sector with state aid. We urge you to consider our criticism and express dissatisfaction with the proposed NAP. A stricter reduction target should be required. We also urge you to demand transparency of emission data and public consultation process. Failure in producing a NAP with environmental integrity can lead to failure in reaching the Kyoto target for Slovenia and will be a poor example for other countries especially in view of the relatively strong economy of the country and ample opportunities for cost-effective emission reduction measures in Slovenia.

With best wishes,

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