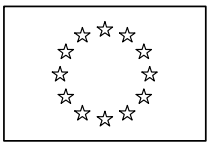


EUROPEAN COMMISSION

Brussels, XXX
[…](2012) XXX draft

COMMISSION STAFF WORKING PAPER

IMPACT ASSESSMENT

Accompanying the document

COMMISSION REGULATION (EU) No …/.. of XXX on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council

COMMISSION REGULATION (EU) No …/.. of XXX on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council

COMMISSION STAFF WORKING PAPER

IMPACT ASSESSMENT

Accompanying the document

COMMISSION REGULATION (EU) No …/.. of XXX on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council

COMMISSION REGULATION (EU) No …/.. of XXX on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council

TABLE OF CONTENTS

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Introduction and policy context

Directive 2003/87/EC (EU ETS), as amended by Directive 2009/29/EC (EU ETS Review), establishes a scheme for greenhouse gas emission allowance trading within the Union in order to promote reduction of greenhouse gas emissions in a cost-effective and economically efficient manner. Under the scheme installations must surrender one emission allowance or project credit for each tonne of CO_2 equivalent emitted.

Accurate monitoring and reporting of emissions by companies, as well as third party verification of emission reports, are of fundamental importance for the integrity of the carbon market established by the EU ETS Directive. In the context of the wider harmonisation in a number of areas as part of the ETS review the co-legislators have also decided to substantially boost the degree of harmonisation in these areas by means of mandating the Commission to adopt the following two regulations in this area by end 2011:

- a regulation for the monitoring and reporting of emissions (M&R Regulation),
- a regulation for the verification of emission reports produced by companies and the accreditation and supervision of qualified verifiers (A&V Regulation).

Before the start of the third trading period of the EU ETS in 2013, monitoring and reporting rules are specified in Commission Guidelines (MRG), Decision No 2007/589/EC. The M&R Regulation shall be based on the principles for monitoring and reporting set out in Annex IV of Directive 2003/87/EC. This means that the main change with the adoption of a Regulation is that the current M&R architecture is transformed with limited changes from (non-binding) Guidelines into a (binding) Regulation.

When it comes to accreditation, at this stage there are not even guidelines in place and current practice is determined by a mix of self-initiatives by existing accreditation bodies and national rules. With respect to verification the reference is just a small section in the MRG and a document developed by the European Cooperation for Accreditation, the EA 6/03. The regulation for the verification of emission reports has to be based on the principles set out in Annex V of the ETS Directive for the accreditation and supervision of verifiers (A&V Regulation). The A&V Regulation shall specify conditions for the accreditation and withdrawal of accreditation, for mutual recognition and peer evaluation of accreditation bodies, as appropriate.

The impacts, notably on costs, resulting from the adoption of these two regulations, therefore need to be assessed in the light of the fact that the co-legislators provided for more harmonised rules in these areas and largely any additional costs arising from these regulations originate from the reduced flexibility to divert from the existing architecture encoded in the form of Commission Guidelines when transformed into a Regulation.

Union action, as set in the two proposed Regulations, is justified and necessary in respect of the **subsidiarity principle** for the following reasons:

- The transnational nature of climate change and the need to create a robust, comparable and coherent system of monitoring, reporting and verifying of emissions within the Union is an important element in determining the need for a Union action. National actions alone would not ensure effective compliance with the requested commitments and would also not suffice for the fulfilment of the objectives referred to in Directive 2003/87/EC and the achievement of the targets set in that Directive. Therefore it has been necessary to create the enabling framework at Union level. The two proposed implementing regulations are necessary to establish harmonised reporting methodologies, to the extent possible, concentrating on the most cost-effective requirements while creating the appropriate conditions for mutual recognition. Improvements to the reporting efficiency are a key element for achieving the GHG emissions reductions targets. The reduction of GHG emissions requires coordination across a full range of instruments, the definition of common criteria and common timeliness of reporting to allow the fair consolidation of Member States data at Union level. The coordination of twenty seven different systems would entail more costs than the creation of a single harmonised system.
- As the overarching commitments are made at the Union level, it is also more effective to develop the required reporting instruments as well as the conditions for verification and for the accreditation of verifiers. Action at Union level would produce clear benefits compared with action at the level of Member States notably by reducing the risks of gaps, loopholes, leakage or double counting. Furthermore, action at the Union level is the best way to ensure a level playing field, thus allowing verifiers to provide high quality service across the whole of the Union

The proposal complies with the **proportionality principle** for the following reasons:

- The two proposed Regulations do not go beyond what is necessary in order to achieve the objectives of improving climate change data quality and ensuring independent and impartial verification by accredited and competent verifiers in line with the requirements set out in Articles 14 and 15 of Directive 2003/87/EC.
- Furthermore, the proposals contribute to the Union's overall objective of reaching the Union's Kyoto greenhouse gas emission reduction targets, the Union targets enshrined in the Climate change and Energy package, the Copenhagen Accord and Decision 1/CP.16 ("Cancun Agreements").
- The proposals foresee a set of rules for the implementation of monitoring and reporting on ETS GHG emissions as well as for a accreditation and verification system for verifiers that is fully in line, as regards practices and procedures, with the needs and capacities of the installations, operators and aircraft operators, including a consistent set of provisions in favor of smaller installations.

The present Impact Assessment has been revised in accordance with the **Opinion of the Impact Assessment Board**, and the recommendations therein. The Opinion was delivered following a written procedure on 22 July 2011 subsequent to DG Climate Action's written reply to the initial Impact Assessment Quality Checklist (IAQC) issued by the Impact Assessment Board on 19 July 2011. Proper responses have been given to the issues raised by the IAQC especially with respect to: using illustrative examples to the problem definitions; defining examples of "SMART" objectives; better defining the policy options; trying to assess the cost and benefits of proposed changes; better compare options with overview tables; having a separate section on subsidiarity and proportionality. The revised IA will be published

in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council. No part of the Impact Assessment is subject to confidentiality.

1.2. Services involved and external expertise

This impact assessment was prepared by DG CLIMA. From November 2010 on, DG CLIMA has held regular meetings with Member States' experts to discuss the scope and content of the proposed regulations. In drafting this impact assessment DG CLIMA also relied on analyses that were carried out by the consultants' consortia responsible for assisting on the M&R Regulation and on the A&V Regulation and on previous evaluations of the EU ETS Compliance Cycle[1]. Furthermore DG CLIMA relied as well on the extensive expertise of the European cooperation for Accreditation (EA). In addition, on 14 April 2011 and 9 June 2011, two inter-service meetings were held to consult relevant Commission services (notably ENV, ENTR, ENER, SG, LS …) on this draft impact assessment.

1.3. Stakeholder consultation

Starting in the autumn of 2010, DG CLIMA, assisted by external consultants, has had regular meetings (bilateral and in the form of technical working groups) with experts and representatives from the Member States, industry and NGO representatives to discuss the scope and content of the proposed regulations. These meetings were specifically designed to discuss the relevant options presented in the successive drafts of the regulations. This exercise has been very instrumental in defining those options that would have broad support among the Member States and the industry.

On 3 (M&R Regulation) and 4 May (A&V Regulation) DG CLIMA also organised two workshops with all relevant experts and stakeholders from the Member States, industry and NGOs on each of the two draft regulations.

Table 1 - Process leading to stakeholder consultation

	M&R Regulation	**A&V Regulation**

[1] The most recent one of a series of reports is: *Support to the Commission for the Review of Permits, Monitoring Plans and Verification Reports in the EU ETS at the level of the Member States for the 2008-2009 Compliance Cycle*

Technical preparations	With respect to the technical preparation of the M&R Regulation DG CLIMA held five meetings of a technical working group composed by its consultants and interested technical experts coming from the European cooperation for Accreditation, environment/energy agencies; national and regional emissions trading authorities and national environment ministries. The meetings took place in the following dates: 15 November 2010; 13 December; 19 January 2011, 15 March, 18 May. In addition the main outcomes of the technical discussions we presented and reported to a Working Group of the Climate Change Committee in the following dates: 16 November 2010; 14 December; 20 January 2011; 16 March; 14 April; 19 May.	With respect to the technical preparation of the A&V Regulation DG CLIMA held six meetings of a technical working group composed by its consultants and interested technical experts coming from the European cooperation for Accreditation, environment/energy agencies; emissions trading authorities and environment ministries. The meetings took place in the following dates: 15 November 2010; 13 December; 26 January 2011, 22 February, 22 March, 20 May. In addition the main outcomes of the technical discussions we presented and reported to a Working Group of the Climate Change Committee in the following dates: 16 November 2010; 14 December; 20 January 2011; 16 March; 14 April; 19 May.
Stakeholder workshop	On **3 May 2011** the M&R Regulation was presented and discussed in a stakeholder workshop in Brussels. The workshop was attended by more than 80 people. All the major industry associations covered by the EU ETS were attending the event. Few Member States participated to the meeting as well. The overall reaction to the draft was very positive. No real substance points were raised by the different industry representatives with respect to the content of the draft M&R Regulation. The regulation was welcomed by most of the participants as a clear tool for fostering harmonisation and building up a common level playing field among the different Member States.	On **4 May 2011** the A&V Regulation was presented and discussed in a stakeholder workshop in Brussels. As for M&R the event was attended by more than 80 people, among which all the major industry associations were represented together with few Member States. In addition to that several verifiers and national Accreditation Bodies participated in the workshop. Again, no substantial problems were raised with respect to the content of the draft regulation and it was welcomed as an important clarification and harmonisation tool for the accreditation and verification market.

1.4 Online consultation

From 15 April to 10 June 2011, DG CLIMA also carried out an online stakeholder consultation. This stakeholder event was specifically designed to allow the broader public that had not been involved in the regular consultations the possibility to express their views on the

proposed regulations as well as more generally to raise public awareness on Commission activities in those sectors of activities.

The on-line questionnaire was accessible through DG CLIMA's and the "Your Voice" website. The questionnaire was made available in German, French and English languages and are was taken to inform relevant stakeholders.

All the standards set in the "General principles and minimum standards for consultation of interested parties by the Commission" have been met. In particular, the public consultation was:

- open to all stakeholders for eight weeks and announced by a press release;
- accessible via the single access point on the internet; and
- followed-up with a summary of the responses.

The data collected through the online stakeholder consultation suggest a keen interest of EU citizens in climate change information and support the further improvement of reporting in this area, in particular with regard to the comprehensiveness and transparency of the information collected.

132 contributions were received, the majority of which (56%) were from private companies and business associations. Contributions originated in 11 out of the 27 Member States while 10 contributions from outside the EU were also received. 56 out of the 132 respondents declared that they are very familiar with the MRG and 49 declared that they were familiar. 85 of them have been "directly" (36) or "indirectly" (49) involved in its implementation.

Overall, respondents found that the two new regulations could respond better to the need of having a more coordinate and harmonised approach to monitoring, reporting and verification in the EU ETS. The main issues raised were related to calls for even more coordination at the national level to further reduce gaps and inconsistencies in the market. It also underlined the on-going necessity to find the right balance between accuracy of monitoring and reporting and cost efficiency. The issue of promoting biofuels was specifically mentioned by the responses from the aviation sector. The need of having a strong co-operation among national Accreditation Bodies and Competent Authorities was stressed by the majority of the responses to the Accreditation and Verification section. 75% of respondents agreed to need of having emissions verified by accredited verifiers.

A summary of the opinions expressed is presented in Annex I. The results of the consultation are also made available on the Commission's website[2].

2. GENERAL APPROACH

2 http://ec.europa.eu/clima/consultations/0010/index_en.htm

2.1. Problem definition

The problem definition has already been carried out in the context of the impact assessment accompanying the proposal for Directive 2009/29/EC.

2.1.1. Monitoring and reporting

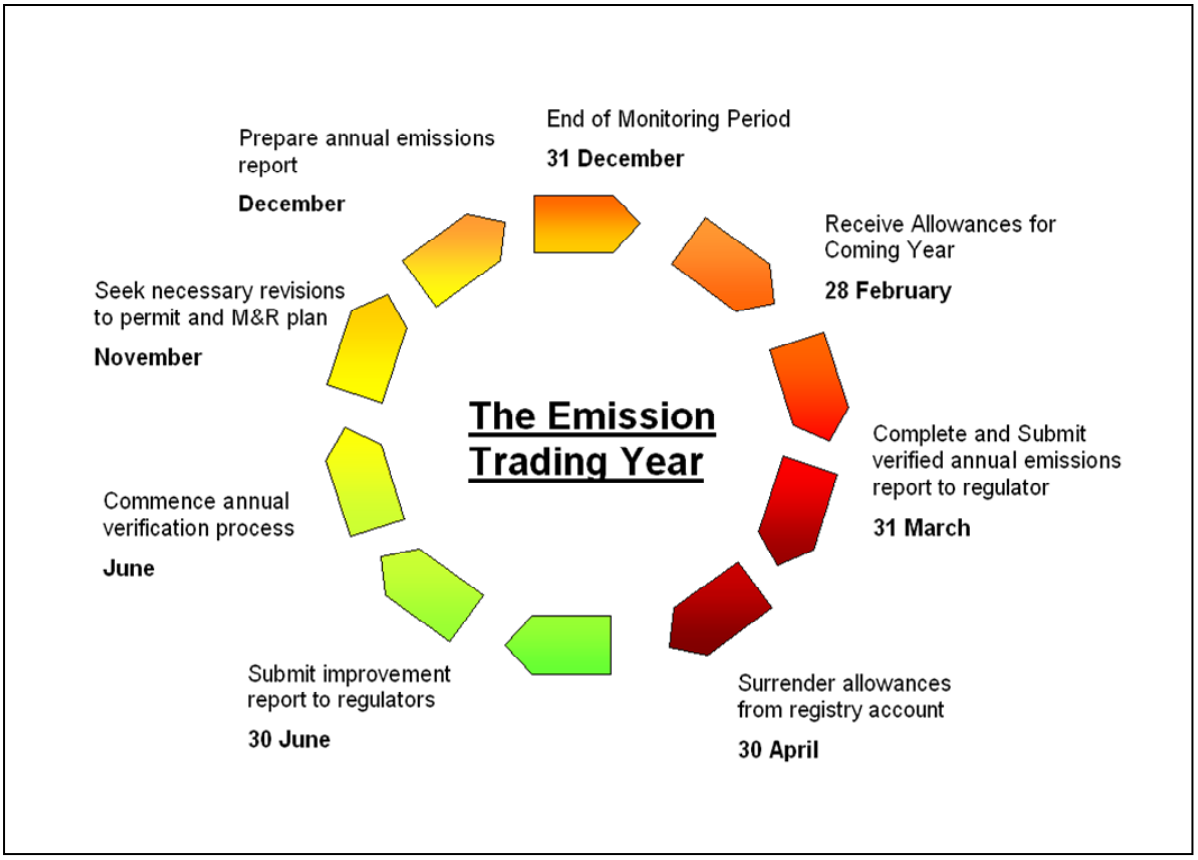
Installation level monitoring and reporting is one of the pillars of the emissions trading system, as required by Article 14 of the EU ETS Directive (Directive 2003/87/EC). The MRG Decision 2007/589/EC contains standard requirements for the monitoring and reporting of greenhouse gas emissions for activities covered under the ETS Directive.

The EU ETS: Some key factors

- **Worldwide largest emissions trading scheme started on 1 January 2005. It covers 50 % of EU CO_2 emissions**
- **It covers > 11,500 fixed installations covering CO_2 emissions from electricity generators, heat & steam production, mineral oil refineries, ferrous metals production & processing, cement, lime glass, bricks and ceramics, pulp & paper, ammonia, chemicals, aluminium**
- **From 2012 > 4,000 aviation operators (monitoring from 2010)**

Installations are required to have an emission permit and an approved monitoring plan and to monitor and report their emissions data during the year. The emissions data in the annual emissions report must be verified by the 31st of March each year by an accredited verification body. Once verified, operators must surrender the equivalent number of allowances by the 30th of April. Furthermore, according to Article 21 of the EU ETS Directive, Member States are required to report to the Commission on the implementation of the system annually. This annual procedure of monitoring, reporting and verification and all processes connected to these activities is referred to as the "compliance cycle".

Table 2 - The Annual EU ETS Compliance Cycle



With respect to the problem definition regarding monitoring and reporting, the analysis carried out in the impact assessment for the preparation of the draft EU ETS Review Directive[3], identified further opportunity to reduce variation between Member States in the way monitoring and reporting requirements are being implemented and, in doing so, to promote an even more level playing field with correspondingly improved environmental integrity and the credibility of the system. Greater harmonisation and commonality of systems is also regarded as a way to reduce costs.

Other evaluation projects carried out on behalf of the Commission and several Member States have identified further opportunities to improve the transparency of information including in relation to the quality and consistency of data, to lead to even more trust in the scheme. As a result, it is relevant that the cost impact of the proposed Regulations should be analysed by also taking into consideration the costs associated with no action and maintaining of the *status-quo*.

2.1.2. Accreditation and Verification of verifiers

[3] COM/2008/16 of 23.01.2008 , Commission Staff Working Document accompanying document to the proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the EU greenhouse gas emission allowance trading system, pp. 62-3, leading to Directive 2009/29/EC.

With respect to problem definition related to accreditation of verifiers and verification of annual emissions reports similar opportunities to the situation related to monitoring and reporting have been identified[4]. The verification of emission reports by companies covered by the EU ETS is important to confirm confidence that the system continues to work honestly and effectively, in particular that emissions are not being underestimated and too few allowances surrendered which would clearly undermine the environmental integrity of the EU ETS. The EU ETS Directive and Decision 2007/589/EC establishing guidelines for the monitoring and reporting of greenhouse gas emissions (hereafter MRG) only sets out the fundamental requirements of the verification process. Further to this Member States have developed their own specific national verification guidance. Most but not all have followed EU ETS guidance published by the European cooperation for Accreditation. Similar flexibility exists in relation to Member State approaches to the accreditation of verifiers. Opportunity exists to reduce differences in Member State requirements and approaches, thereby further promoting confidence in the level playing field and reducing barriers regarding the internal market, costs and to verifiers wishing to provide their services in different Member States.

The role of accreditation also provides opportunity to underpin the quality of verification of annual emission reports and at the same time ensure overall harmonisation within the system as regulated by Article 15 of the EU ETS Directive. In this context the draft Accreditation and Verification Regulation refers to the existing broader legal framework for accreditation provided by Council Regulation 2008/765/EC of 9 July 2008, and in particular to Article 4.1 where it states that " Each Member State shall appoint a single national accreditation Body" and Article 13 where it says that "The Commission shall ensure that sectoral schemes identify the technical specifications necessary to meet the level of competence required…..". Such a regulation was covered by an impact assessment too[5].

Moreover with respect to accreditation the draft A&V Regulation refers to two specific standards ISO 14065 for verifiers and ISO 17011 for accreditation. The latter one related to accreditation is a European Harmonised Standard since 2004, where the first one is in the process of becoming a European Harmonised Standard possibly by spring 2012. Both standards are widely used by practitioners since many years. ISO 17011 is also at the basis of the general accreditation framework developed by Council Regulation 765/2008/EC. Within this context it has been logical to refer to these two existing standards complementing them with the necessary specific measures relevant for the EU ETS. In this way both the articles and the annexes of the Regulation refer only in general terms to existing standardisation measures. Therefore, Commission services use in the best possible and efficient way existing standardisation measures not duplicating or overlapping already existing practices.

2.2. Simplification

One of the main drivers in the policy-making of both regulations has been further simplification of EU ETS monitoring and reporting on one side and introduction of clear and user-friendly rules for accreditation and verification on the other. These elements are very factual.

[4] COM/2008/16 of 23.01.2008 , p. 71
[5] SEC(2007) 174

For example, the present MRG, following a positive vote in the Climate Change Committee of December 2010, is a 184 pages document consisting of twenty-four sectoral annexes. The final draft of the M&R Regulation is, at the moment, a 120 page document inclusive of nine annexes. Great effort has been put into making the draft regulation more user-friendly in order to provide a clearer structure and considerably reduce repetition.

The final draft of the A&V Regulation is expected to be of ca. 90 pages, inclusive of four annexes. Specific care has been put into making a document with clear definition of specific responsibilities for the different players.

In both regulations, special attention is given to clarifying existing grey areas with respect to EU ETS MRV that at the moment are resulting in inefficient and time-consuming discussions between operators and Competent Authorities. With respect to verification, the clear procedures that are resulting from the draft A&V Regulation will bring much more control to the costs that verifiers are imposing to operators.

In this way both documents can be easily used by Competent Authorities, Operators, Verifiers and Accreditation Bodies resulting, with respect to the present system, in an overall saving of money, time and resources.

Particularly in the context of simplification, objectives have been defined as much as possible taking into account the SMART criteria (Specific, Measurable, Achievable, Realistic, Time-dependent). This is especially relevant for small emitters in the framework of the EU ETS.

This approach has not always been possible to implement due sometimes to a lack of data or to the completely new approach that was about to be developed. However some non-exhaustive are the following ones.

- With respect to the M&R Regulation a positive example of using SMART objectives are the issues "harmonised interpretation of unreasonable costs" (3.3.3) where an effort has been made in the sense of defining a common guidance to the interpretation of the concept "unreasonable cost" also linked to economic depreciation. Another example is related to “simplified procedures and requirements” (3.3.8), where simplified monitoring plan templates have been developed. On the other hand, SMART objectives are very difficult to define in the case for example of “application of the improvement principle” where a common approach, apart from few single selected cases, has still to be developed.
- With respect to the A&V Regulation examples related to SMART objectives could be identified in all the issues related to the "Establishment of the accreditation requirements", mainly 4.3.2; 4.3.3; 4.3.4 and 4.3.5. In fact all these specific operational objectives are framed in the overall implementation of Council Regulation 765/2008/EC and are related to establishing an effective partnership with the EA (European cooperation for Accreditation). The same can be said with respect to "simplified procedures and requirements" (4.3.7) for verification, due to the fact that specific simplified verification plans and procedures have to be developed for small emitters and simple installations. In the case of the A&V Regulation there also cases where SMART objectives are not completely possible, especially regarding the measurement side, for example with respect to "Risk Analysis" (4.3.6) and its link to strategic analysis.

The defined objectives for the M&R Regulation (under 3.2) and for the A&V Regulation (under 4.2) are as well considering aspects related to competitiveness and to social and health issues. This is specifically due to the fact that the monitoring and reporting of emissions and the accreditation of verifiers and the verification of annual emissions reports are important tools within the EU ETS, that is by definition a market based instrument.

2.3. Cost assumptions

The aim of minimising costs for Competent Authorities and operators has always been one of the main elements of the EU ETS MRV. This is particularly important for the making of the M&R and A&V Regulations. A full-fledged quantitative assessment of costs of the different policy options cannot be carried out due to the difficulty of collecting information at national level. Equally difficult is the quantification of costs due to the nature of constant consultation between operators and Competent Authorities and the dynamic element of passing through different tiers for the monitoring and reporting.

However, two elements are to be underlined as drivers for the approach chosen:

- On one hand, cost minimisation has always been taken as a fundament for the option chosen though dealt through a qualitative assessment. This is particularly relevant in the clarification of the existing "grey areas" for example in relation to uncertainty and to sampling and testing. Clearer and more transparent requirements are important for the economic planning of operators. Moreover the overall system behind monitoring, reporting, accreditation and verification is organised in such a way to ensure a governance system in which legislation and policy implementation play an important role following the "better regulation" approach.
- On the other hand, it is assumed that the two regulations are intrinsically part of the implementation of the EU ETS and covered as such by Recital 17 of Directive 2009/29/EC that states that "Member States will need to make substantial investments to reduce the carbon intensity of their economies by 2020."

In fact, as a result, the provisions of the two regulations are to be seen also as fundaments within a wider process intended to create a sort of Open Method of coordination further developing EU ETS compliance. In that regard, the already existing Compliance Forum composed of all the major national and local ETS Competent Authorities and the Commission and established in 2008, appears to be the ideal organisation for continuing to share best practices, to finding common solutions and to minimising costs wherever possible. It is meant to meet on a yearly basis and has confirmed over the past four years that both the quality of the attendance and of the outcomes are likely to help deliver important contributions for the reasonable and accurate management of the provisions under discussion including on costs The Compliance Forum will also play an important role in the next months in the implementation of the two draft regulations because it will be active together with the Commission in developing, starting from September 2011, quite a number of guidance materials, Frequently Asked Questions, user manuals.

Finally with respect to verification costs, original 2006 estimates[6] that see the average cost in the order of € 800 and € 1000, are still justified. Equally the average verification time for the more than 11,500 installations is confirmed as a 3-4 days process. At the moment 200 Verification Bodies are estimated to be active in the EU ETS system with a total number of verifiers estimated in the order of 1200 individuals.

Furthermore it is important to consider three different things:

- The aim of minimising costs on competent authorities and operators is at the fore-front of thinking in selecting all the options proposed in the IA.
- A complete quantitative assessment of costs concerning the different policy options is not realistic due to the difficulty of collecting truly representative information at the national level and the fact that many options have yet to be put into practice. Therefore, a semi-quantitative approach has been applied, aimed at erring on the side of conservative estimate (under-estimation of savings and over-estimation of additional costs as appropriate for the recommended options)
- Independent views on costs associated with the various proposed options for each operational objective have been drawn from authoritative sources representative of competent authority, verifier and general EU ETS interests.

Finally, unless it is explicitly mentioned, most of the costs have to be considered as per annum and per installations.

2.3.1. Administrative burden

There is a potential for increasing the cost efficiency with respect to administrative procedures. In particular there exists in all Member States a clear potential for the reduction of effort in the notification of changes and the subsequent approval of changes and updating of permits and monitoring plans. There are two types of measures that would reduce the administrative burdens to the Competent Authorities:

– A first measure would be to install IT systems supporting data delivery (e.g. reporting in web-based application), review of data (e.g. through automated checks) and data management (easier updating of documents, storage and tracking of data). Currently at least 10 Member States[7] have such IT systems and even with these systems some – yet smaller – room for improvement exists. An IT based common reporting format could have the potential to successfully achieve the objectives and ensure better comparability of the reports. This will help to increase transparency and to identify inconsistencies. IT based reporting formats may incur high one-off costs, but in the longer term may turn out to incur considerably less costs.

– The second measure to reduce the administrative burden is to redesign, streamline and simplify administrative procedures. This is as well another objective of the two draft Regulations.

[6] PwC, 2006 ETS Compliance Review Report
[7] DE, DK, FI, UK, HU, IT, NO, PL, PT, SE, SI

Moreover, some of the installation GHG permits and M&R Plans may need to be reviewed and modified to deal with additional requirements in any new regulations not currently implemented by MSs. "*Assuming permit variations cost operators (or in some cases the CA) around € 600 each (costs involved in applying for the variation, checking the application and reissuing the permit) then the costs of reissuing permits could potentially reach up to a maximum € 6 million*,"[8]

Specifically with respect to the A&V Regulation, the overall cost to verifications should be more uniform. In administrative terms the regulation will means potential costs for Member States when the legal basis will require them to change already established regulations and processes. However, given that many of the existing organisations, especially active in accreditation, already play a significant role in many of the Member States, costs of formalising their involvement should not be great. For operators the costs are likely to be relatively minor since many verifiers already adhere to relevant ISO standards and to guidance developed by the European Cooperation for Accreditation (EA). Therefore the overall costs of verifications are not likely to change significantly.

With that respect it is worthwhile to recall here that the Impact Assessment accompanying the revision of the ETS Directive mentioned general estimates on cost assumptions at the level of Member States with respect to implementation of new legislation on verification in the case of adapting the existing MRG to the new framework dictated by the revision of the EU ETS and the starting of the third trading period in 2013. "*Assuming it takes roughly around 30 to 40 working days for a MS to make changes to existing legislation/guidance, this would equate to around 800 to 1000 days (€0.5-€0.6m) across the 27 MS*". [9] These costs will be avoided in the case of having a Regulation in place which will imply no changes in terms of adapting national legislation.

On the other hand the Member States having to deal with a regulation will have to face costs at national level for repealing legislation, "*assuming it takes 10 to 20 working days to repeal legislation (as opposed to amending or developing it), this would equate to between 250 - 500*

days over the 27 MS (around €0.15 to €0.3 million). Therefore total costs to the 27 MS and CAs of this option would be in the vicinity of € 0.3 to 1m."[10]

3. MONITORING AND REPORTING REGULATION

3.1. General policy objectives

The main objectives were identified already in the impact assessment accompanying the proposal for Directive 2009/29/EC. These are:

[8] COM/2008/16 of 23.01.2008 , p. 67
[9] COM/2008/16 of 23.01.2008, p. 75
[10] COM/2008/16 of 23.01.2008, p. 67

– Ensuring a common approach with respect to monitoring and reporting in order to guarantee environmental effectiveness and integrity of the system and improving cost-effectiveness;

– Seeking higher consistency and transparency, which leads in the medium term to savings for all stakeholders involved;

– Improving cost effectiveness of monitoring and reporting standards, since they are assumed to enhance the trust in the reports to the market and would thereby positively albeit indirectly affect the efficiency of the market.

3.2. Specific and operational objectives

Enhance the current monitoring requirements

Operational objectives:

- Uncertainty assessment;
- Harmonise interpretation of unreasonable costs;
- Transfer of CO2;
- Biomass sustainability criteria.

Enhance the current reporting requirements

Operational objectives

- Production related data;
- Sampling approach and frequency
- Simplified procedures and requirements;
- Application of the improvement principle;
- Information technology.

(i) All of the operational objectives covered seek to address the issues discussed in section 2.1 (problem definition) of the IA. All of the proposed options can be considered to address these problems as well as all of the general policy objectives set for M&R in section 3.1., such as:

1. a reduction of variation between Member States policies on monitoring and reporting;
2. building up an even more level playing field;
3. reaching improved environmental integrity.

This will result in greater harmonisation and commonality of systems to reduce costs and achieve transparency in relation to quality and consistency of data to provide even more trust in EU ETS.

Table 3 – Links between problems and operational objectives and options

		OPERATIONAL OBJECTIVES	
		Monitory requirements	**Reporting requirements**
GENERAL POLICY PROBLEMS	**Reducing variation reduction between MSs policies**	*Uncertainty assessment*, that results in reaching a common understanding of how to assess the uncertainty related to the measurement of existing equipment or analyses	With respect to *sampling approach and frequency* the link with the identified problems is guaranteed through a common understanding is ensured in this field of reporting. The fulfilment of this general policy objective will be respected also through the contribute of the developing of an effective *information technology* within the monitoring requirements.
	Improving level playing field	*Harmonised interpretation of unreasonable costs*, with respect to the relation between operators and Competent Authorities, will result in better predictability for the operator and longer term planning.	The link with *simplified procedures and requirements* is exemplified by the fact of having common procedures developed among different national and regional competent authorities.
	Improving environmental integrity	The *transfer of CO_2* objective avoids leakages and loophole in the system, at the same time ensuring a level playing field among the Member States. Regarding the definition of biomass and the possible mentioning and introduction of the *biomass sustainability criteria* this will contribute as well to address the problem, since will ensure that biofuels and bioliquids are indeed complying with criteria linked to sustainable development.	*Production related data* where reporting of allocation-related data will not improve the environmental integrity of the system in fact this will result in an additional burden for operators not necessarily improving transparency. In relation to the operational objective of *application of the improvement principle* this respond to the specific problem of reaching improved environmental integrity activating a dynamic mechanism of continuous improvement following the verifier's recommendations.

The operational objectives covered represent the known relevant issues, based on stakeholder feedback, and were established following the on-line consultation. Omissions would beg a question as to why an issue deemed relevant in these related circumstances is then ignored in the IA. The number of options concerning each operational objective has usually been restricted to the minimum of two; the nearest thing to a status quo baseline position and then next most applicable or optimal alternative. Section 2.1 of the IA points out the relevance of considering the status quo position. The regular references to particular options (the selected ones) being "fully in line with the original requirements set-up by the IA of Directive 2009/29/EU" should be read as fully compliant with the general policy objectives specified for the M&R Regulation.

(ii) The options for operational objectives considered the most significant likely impact are already preceded by more lengthy introductory text to establish the particular concern.

(iii) The options discussed all propose to meet the stated requirements of Article 14 of Directive 2003/87/EC (and its corresponding Annex IV).

3.3. Policy options

Policy options are presented for the operational objectives outlined in section 3.2. In most areas there exist only two generic policy options. This is due to the fact that in practice existing rules are "elevated" to the status of a regulation and hence the two options at hand are continuation of the status quo with differing ways of implementing existing "soft" law across 27 Member States and a harmonised and binding rule. Assessing the impacts in a great degree of detail is impossible due to data constraints of gaining a complete picture how the current guidelines are implemented.

The range of presented policy options is proportionate to an already well understood position based on:

1. The requirements for monitoring and reporting (MR) and for accreditation and verification (AV), set out in Articles 14 and 15 respectively of Directive 2003/87/EC;
2. Six years of operational stakeholder experience with the EU ETS, including in relation to the requirements of Commission Decision No 2007/589/EC (the EU ETS M&R Guidelines) and its predecessor;
3. Information reported in conclusion to Commission reviews concerning implementation of EU ETS MRVA and compliance cycle requirements (most pertinently last year's Support to the Commission for the Review of Permits, Monitoring Plans and Verification Reports in the EU ETS at the level of Member States for the 2008-2009 Compliance Cycle), ref: section 1.2 of the IA;
4. Technical Working Group stakeholder (including other relevant Commission DG) consultation during the drafting of the two Regulations and feedback from the wider technical consultations held in conjunction with the Stakeholder Workshops (M&R Regulation on 3 May, A&V Regulation 4 May), ref: section 1.3 of the IA;
5. Response to the on-line consultation, ref: section 1.4 of the IA.

Section 3.3 of the IA explains that only two options are generally presented for each of the identified operational objectives. Especially for the M&R Regulation this reflects on the one hand the current requirement under Commission Decision No 2007/589/EC (the status quo baseline) and on the other the next most applicable or optimal alternative. The current requirement provides the logical starting point bearing in mind the already established maturity of EU ETS. The alternative options are entirely based on items (1) to (5) above.

Absence of an equivalent to Commission Decision No 2007/598/EC for A&V makes selection of a baseline position less clear-cut, but it has nevertheless been possible to present one option to reflect the majority position and at least one other to represent the next most applicable or optimal alternative. Again, this provides a logical approach to the starting point and alternatives. Options are entirely based on items (i) to (v) above.

No options favoured by the majority of stakeholders are discarded, as this would tend to exacerbate potential problems regarding achievement of greater consistency, harmonisation and cost-effectiveness.

3.3.1. Analysis and examples

(i) The number of small scale emitters in the EU ETS is around 50% with respect to the 11,500 fixed installations and 80% with respect to the 4,000 aircraft operators.

(ii) "Gold-plating" examples from Member States' practices that may lead to excessive costs for operators.

Example provided by Germany:

Review of Annual Emissions Reports. According to national legislation, the regional authorities have to check the verified reports for completeness and randomly for correctness of content. As random checks are not further defined, the share of reports which are checked and the specifics of checking depend on the individual federal state. As a result, enormous differences exist in the checking practise between the different states.

(iii) Respect to simplification potential, in order to support cost-effectiveness with smaller emitters, Section 16 of the MRG details a number of simplified requirements for installations which emit less than 25kt of CO_2 annually.

All Member States use the requirements of section 16 of the MRG except for the provision allowing Member States to waive site visits (for more information see section 3.4.4). Four Member States provide simplified monitoring plan templates for small emitters or simple installations (e.g. using only natural gas). Further potential for reduction of efforts was found in the development of simplified monitoring procedures and templates, not only for small emitters but also for installations requiring only simple monitoring processes.

A best practice exists in Denmark where installations of category A and B, using only standard fuels and having no process emissions, can use simplified monitoring, reporting and verification templates as well as simplified procedures. This does not only include standard procedures for monitoring activity data - the installations usually monitor their emissions at the main gate of the installation and get their activity data from the gas supplier - but also the

use of up-to-date and accurate standard factors for the NCV and EF. Simplified verification approaches and partially automatically generated emission reports are part of these procedures.

Approaches for simplified procedures can, while not reducing the quality of compliance, considerably reduce costs both on the side of the operator as well as on the side of the Competent Authority.

(iv) The current legislation of the 2007 Monitoring and Reporting Guidelines allows for a list of applications (e.g. drinks production, grain disinfestations, underground storage of CO_2) to deduct from an installation's total CO_2 emission the CO_2 transferred out the installation as long as this is reflected in the national inventory.

The requirement to mirror a transfer of CO_2 in the report on the national inventory is generally difficult to implement, as the IPCC 1996 GL and 2000 GPG do not list emission categories to report such a transfer. The IPCC 2006 GL clearly state that captured CO_2 used downstream, should be accounted for at the originating process, unless the inventory clearly foresees that these emissions should be accounted for somewhere else (e.g. at product use[11]). The current MRG approach can thus lead to a situation in which the transferred emissions are neither accounted for under the EU ETS nor under the national inventory.

Generally, those Member States that have not been confronted with the transfer of CO_2 and/or have not prepared for this, do not have a specific position under which conditions they would allow such transfers. Most Member States were aware that in the future, installations for which a transfer might apply (e.g. ammonia production), will be in the system from 2013 onwards and that developing a "transfer" strategy was therefore required. These Member States stated that EU-guidance on this issue would be highly appreciated. The current wording of the MRG provisions can lead to CO_2 leaving the EU ETS, which is then unaccounted for. While at the moment, there is still some flexibility with national inventories, a common approach will be necessary when the IPCC 2006 Guidelines come into effect. This is generally scheduled for 2013 for the EU, although a final decision has not yet been made.

With the following text specific examples are given for each of the issues taken into account:

1. Uncertainty assessment;
2. Harmonised interpretation of unreasonable costs;
3. Transfer of CO_2
4. Treatment of solid and liquid biomass, including sustainability criteria
5. Sampling approach and frequency
6. Production related data

[11] The IPCC 2006 GL specifically name urea and methanol production as such cases. Where CO_2 is transferred for such production purposes, double counting of emissions can occur if emissions are accounted for both under the EU ETS and under the national inventory.

7. Simplified procedures and requirements
8. Application of the improvement principle
9. Information technology

3.3.2. Uncertainty Assessments

Member States have interpreted the requirements on uncertainty assessment in a different way. Fifteen Member States require information on how the uncertainty thresholds will be met and how the uncertainty is assessed. Member States have used very different approaches in doing so. With regards to the uncertainty connected to quantity measurements of the source stream, approaches include using calibration certificates as proof, or requiring a full blown uncertainty assessment. Some Member States use a combination of approaches.

As the fallback approach, usually a full blown uncertainty assessment is required. The quality of the uncertainty assessments in the Monitoring Plan differs, making it difficult for a verifier to check whether indeed the overall uncertainty is being met. Most of the Member States using the fall back approach stated the need for additional guidance on the uncertainty assessment.

There is no common understanding of how to assess the uncertainty related to the measurement of existing equipment or analyses. Sometimes uncertainty is unknown (e.g. where a standard factor is applied). Sometimes no evidence can be obtained (e.g. where supplier invoices are used). Sometimes uncertainty should not be expressed as percentage (analysis standards, weighbridges). There is no common understanding on what kind of proof on the uncertainty assessment should be submitted with the Monitoring Plan and how it should be assessed.

Option 1: Maintain the existing requirements of the MRG with respect to "Uncertainty Assessment". ("No policy change")

Option 2: Make current approaches considerably more pragmatic and comparable. In specific terms, provided that measurement instruments are installed, maintained and calibrated appropriately for their use specifications, the *maximum permissible errors* (MPEs) specified for the measurement instrument – or if lower, the uncertainty obtained by calibration – can be used as uncertainty value relevant for activity data tiers. The result will be to put more focus on other quality criteria, such as: correct installation of equipment, maintenance and calibration of instruments. ("Comprehensive policy change")

The M&R Regulation clarifies to what extent proof of uncertainty assessment should be submitted in the Monitoring Plan, how it should be assessed by the Competent Authority and what needs to be reported in the Annual Emission Report. Scope for more straightforward approaches is accommodated for smaller emitters and simple installations, building on the basis already formulated in the MRG.

With respect to Option 2 clear savings are identified in the order of 70% for operators M&R and for facilitating present very complex discussions with Competent Authority. This particular claim can be substantiated on the basis of the likely numbers of installations that will be able to benefit from the more straightforward approaches to demonstrating that they meet uncertainty requirements. The intention will be to alleviate the burden on all smaller

emitting installations (Category As and possibly some Category Bs and Cs as well). Bearing in mind the approximate breakdown of installations is Category A: ≤50,000 tCO_2 emission per year (ca. 80% of installations); Category B: >50,000 tCO_2 ≤ 500,000 tCO_2 emission per year (ca. 15% installations); and Category C: ≥ 500,000 tCO_2 emission per year (ca. 5% installations), an estimated saving of 70% may be regarded as conservative and therefore the option clearly attractive from a cost-perspective without small if any risk to data quality. Adoption of Option 2 will also bring savings in the verification process in the order of 10 – 20 %. Overall the adoption of Option 2 is perceived to be Category I.

Option 1 is not a viable option, because it will perpetuate the current inconsistencies and associated inefficiencies, and reduce confidence in the comparability and adequacy of monitoring and reporting data.

Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 2 is retained.

3.3.3. Harmonised Interpretation of Unreasonable Costs

The definition of unreasonable costs, which are laid down in section 2(4)(a) of the MRG, has been interpreted and implemented differently between Member States. Some Member States[12] use the IMPEL/ETSG guidance note on unreasonable costs, or have adapted this approach. Other Member States are assessing unreasonable costs on a case-by-case basis. In four Member States the highest tier approach is not applied to the letter as they are of the opinion that the minimum tiers, in Table 1 of Annex I of the MRG, are the required tiers. This is partly due to the fact that the interrelation between section 5.2 of the MRG and Table 1 of the MRG is found to be rather ambiguous and unclear. Several Member States stated that they had real difficulty in convincing operators to apply the highest tier from the beginning of the second trading period on.

Option 1: Maintain the requirements of the old definition of the MRG. ("No policy change")

Option 2: Clarify how to calculate and compare cost and benefit of a monitoring methodology. Costs have to include economic depreciation period. Benefit must be calculated as improvement factor multiplied by reference price. In order to demonstrate how reasonable or unreasonable the costs of implementing a measure(s) to meet the highest tiers[13] would be, an Operator should evaluate the costs of implementing measures to improve metering, sampling and/or analytical accuracy against the benefits obtained. ("Limited policy change"). This

[13] The tier system provides a set of building blocks to determine the appropriate monitoring methodology for each installation. The tier system defines a hierarchy of different ambition levels for activity data, emission factors and oxidation or conversion factors. These levels are the so-called "tiers". The higher the number of the tier chosen, the higher the level of accuracy / the more site-specific the monitoring system becomes.

clarification shall make it possible for the Operator to evaluate the costs of implementing measures. This will improve metering, sampling and/or analytical accuracy in proportion to the benefits obtained.

With respect to Option 2 its adoption will result in better predictability for the operator and longer term planning. Savings will be in the order of Category II. This will be something in the order of 20 – 30 % savings for operators.

Option 1 will continue to favour different interpretations to the concept of unreasonable cost.

Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 2 is retained.

3.3.4. Transfer of CO_2

A common understanding of the implementation of the provisions on transferred CO_2 does not exist. The current wording of the MRG provisions can lead to CO_2 leaving the EU ETS, which is then unaccounted for. While at the moment, there is still some flexibility with national inventories, a common approach will be necessary when the IPCC 2006 Guidelines come into effect. This is generally scheduled for 2013 for the EU, although a final decision has not yet been made.

In 2008, only fifteen Member States reported, in the Article 21 report, such a transfer of CO_2. With regards to this transfer of CO_2, Member States generally follow section 5.7 of the MRG. Only a few Member States have introduced additional requirements to avoid loopholes in the transfer of CO_2. Those Member States treat the list of examples in section 5.7 of the MRG as exhaustive, i.e. they do not allow the transfer for other uses or only in case the CO_2 is transferred to another EU ETS installation. Two Member States do not allow any transfer of CO_2. One Member State would prefer not to allow a transfer of CO_2 at all but feels that section 5.7 of the MRG did not provide the legal basis to do so. In one Member State the transfer is not represented in the national inventory under the UNFCCC.

The requirement to mirror a transfer of CO_2 in the report on the national inventory is generally difficult to implement, as the IPCC 1996 Guidelines and 2000 GPG do not list emission categories to report such a transfer. The IPCC 2006 Guidelines clearly state that captured CO_2 used downstream, should be accounted for at the originating process, unless the inventory clearly foresees that these emissions should be accounted for somewhere else (e.g. at product use). The current MRG approach can thus lead to a situation that the transferred emissions are neither accounted for under the EU ETS nor under the national inventory.

The current provisions in the MRG result in some of the greatest differences in decisions seen between Member States, inconsistencies with national greenhouse gas inventory reporting and concerns about an unlevel playing field.

Option 1: Maintain the requirements of Section 5.7 of the MRG. ("No policy change")

Option 2: Provision to subtract transferred CO2 from reported emissions will only be allowed in the case of transfers to carbon capture and storage activities (where longer term retention is assured and remains controlled within EU ETS).

No other options were under discussion due to the very clear-cut situation.

Option 2 is a highly supported amendment that will eliminate currently suggested transfers to uses such as in dry ice, carbonated drinks, and grains disinfestations that only result in temporary retention of the CO_2 and difficulties concerning proper accounting in national greenhouse gas inventories. Future transfers will only be allowed to CCS activities where permanent avoidance of emission can be reasonably expected. The adoption of Option 2 is perceived to be quite cost neutral, therefore falling within Category III. On the contrary continuing with the status quo (Option 1) will result in higher costs due to increasing discussions and difficult relations between Competent Authorities and operators. Therefore this will be resulting in Category V: 50% increase in M&R expenses.

Option 1 will continue to jeopardise the environmental integrity of the system.

Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 2 is retained.

3.3.5. Treatment of solid and liquid biomass, including sustainability criteria

"Biomass" means biomass, bioliquids and biofuels within the meaning of Directive 2009/28/EC including sustainability criteria for biofuels and bioliquids. Important to note that the first reference to "biomass" constitutes "EU ETS biomass", the second reference refers to the "Renewable Energy" Directive 2009/28/EC (RED) definition of biomass, while the reference to sustainability criteria is only intended in connection with biofuels and bioliquids deemed sustainable in accordance with Directive 2009/28/EC; NOT other forms of (solid or gaseous) biomass.

Biomass for the EU ETS purposes is currently only defined in the MRG. This definition needs to be updated to be better aligned with a more common European definition of biomass and with renewable energy policy. In particular to prevent continued use of certain biofuels and bioliquids that is now considered unsustainable. The introduction of biomass sustainability criteria is not supported by a number of Member States – but the main concern is solid biomass. It has to be clarified that an emission factor of zero for biomass is retained – as already established by the EU ETS Directive – and that emission savings factors from the RED are not required as emission factor under the EU-ETS.

Option 1: Retain the MRG definition. ("No policy change") There will be no consistency with the RED. This option will continue to favour a limited approach to biomass and jeopardise the integrity of EU ETS. The disadvantages of retaining this option

will include incompatibility with the RED definition and objectives. Moreover there will be a missed opportunity to integrate sustainability criteria into the EU ETS and, therefore, to support wider climate change interests. The maintaining of the status quo will allow sustainable and non-sustainable biomass to continue enjoying the same advantages regarding zero-rating (exemption from surrender of emission allowances). Finally, under this option, the EU ETS will be attracting increased quantities of non-sustainable biomass by virtue of being seen as an incentivised outlet.

Option 2: Change to a RED compatible definition but without application of sustainability criteria. This approach will retain the zero rating for biomass but it will not open up to the sustainability criteria. ("RED definition only") This option will address only partially the consistency issue with the RED and continue to jeopardise the integrity of EU ETS. In fact, most of the disadvantages listed for Option 1 will remain.

Option 3: Change to a RED compatible definition and requirement for biofuels and bioliquids to meet RED sustainability criteria in order to qualify for zero rating. This option will satisfy the RED and address sustainability criteria for biofuels and bioliquids, for which EU criteria have been developed. Economic incentives supporting the sustainability criteria will have a positive effect lowering the economic and administrative impact ("RED definition plus sustainability criteria for biofuels, bioliquids").

Although there are consequences for EU ETS operators in that non-sustainable biofuels and bioliquids would be no longer eligible for EU ETS zero-rating (emissions would have to be reported and a corresponding number of emission allowances surrendered), the operator remains at liberty to switch to using sustainable alternatives (the intention) or biomass other than biofuels and bioliquids in order to retain eligibility for zero-rated emissions. This position should result in negligible additional cost burden regarding EU ETS implementation.

Any other additional option that could be developed will anticipate possible future policy changes that will go far beyond the scope of the present implementing measure. In particular introducing in the EU ETS the use of sustainability criteria for solid biomass is not a viable option at this stage due to the fact that are no mandatory European wide sustainability criteria and most supply is on a small and highly dispersed scale. DG CLIMA is currently working on a proposal to develop and put in place a comprehensive LULUCF accounting system. Whilst the "zero-rating" will remain at installation level in the EU ETS, the existence of a LULUCF accounting system would ensure that all human-induced emissions (and removals) of CO_2 associated with different uses of biomass (energy production and other, e.g. timber for construction and *in situ* use such as conservation or enhancement of carbon stocks) are captured / visible in Member States emission inventories.

The adoption of Option 3 will result in limited additional costs for operators at the beginning, also due to the still overall uncertainty of the system implementation. However the overall impact, especially on fixed installations, will be limited due to the limited use of biofuels and bioliquids. Therefore Option 3 is seen to be falling within Category IV.

Option 1: There will be no consistency with the RED. This option will continue to favour a limited approach to biomass and jeopardise the integrity of EU ETS.

Option 2: This option will answer only partially the consistency issue with the RED and continue to jeopardise the integrity of EU ETS.

Option 3: This option will satisfy the RED and address sustainability criteria for biofuels and bioliquids, for which EU criteria have been developed.

Option 3 is retained as the basis to organise Monitoring and Reporting

3.3.6. Sampling Approach and Frequency

The MRG contains pragmatic indications for requirements on sampling and how to set the sampling frequency where the characteristics of materials are to be determined by analysis (e.g. the carbon content). However, in practice there is no common understanding among different MS on how to implement the sampling requirements.

In particular, Sixteen Member States (covering 64% of the Union-wide emissions) applied Table 5 and section 13.6 of the MRG as it is. For the most part they focus on Table 5 as the uncertainty requirement in 13.6 is found to be difficult to apply and also because the requirement is generally not (fully) understood (see also section 3.2.1 on uncertainty assessments). Member States therefore tend to use Table 5 to determine the sampling and analysis frequency. This is the case in at least four Member States, even without the Member States requiring the operator to justify the need for this approach. There was however a common understanding that the frequencies in Table 5 are too onerous in some cases and too lenient in others, and that the table clearly needs a full review and update. In general, Member States asked for a more detailed and practical approach on the requirements for the sampling frequency and procedures.

Option 1: Confirm the pragmatic approach of the MRG. ("No policy change").

Option 2: Better define the sampling requirements and assess applicability of standards. Specifically, the operator shall submit a sampling plan to the Competent Authority for approval for each fuel or material. The operator shall agree the sampling plan with the laboratory carrying out the analysis. The relevant analyses, sampling, calibrations and validations shall be carried out by applying methods based on CEN standards. If CEN standards are not available, suitable ISO standards or national standards shall apply. This approach will be preferable in the medium-long term but unfortunately, at the moment, it is not possible develop it in the framework of the preparation of the present M&R Regulation. This is due to lack of knowledge and time constraints. Further work in this sense could be carried out within the forthcoming guidance material accompanying the implementation of the M&R Regulation.

The adoption of Option 2 will result in some operators doing more than they are already doing right now. The increase will have to be positioned between Category III (cost-neutral) and

Category IV (limited increase). Continuation of the present pragmatic approach (Option 1) indicated by the MRG will result in costs related to Category III (cost-neutral).

Option 1 will continue to favour the present pragmatic interpretation with respect to sampling requirements.

Option 2 will be more preferable in the medium-long term but present lack of knowledge and time-constraints do not make it possible.

Option 1 is retained.

3.3.7. Reporting of Production Deleted Data

Combination of the Common Implementing Measures (CIMS) related to benchmarking and annual emissions and tonne-kilometre reporting are likely to be overly complicated and add costs. Reporting of allocation-related data presents different technical challenges; although the legal basis has already been provided (within the CIMS). The burden is on the operator to report changes to different timescales compared to annual emissions or tonne-kilometre reporting. This is only required in the event of changes.

Combined reporting is not in the interests of cost-effectiveness and efficiency. The consequence will be to have two reporting templates with an additional verification burden (added competency regarding allocation rules required in all cases). Combination could reduce transparency and efficiency, not improve it. Verifier quality assessment checks can still be carried out (A&V Regulation, guidance).

According to Article 14(2) of the revised ETS Directive: "*The regulation […] may also specify requirements for operators to report on emissions associated with the production of goods produced by energy intensive industries which may be subject to international competition. That regulation may also specify requirements for this information to be verified independently. Those requirements may include reporting on levels of emissions from electricity generation covered by the Community scheme associated with the production of such goods.*"

Option 1: Do not specify the production related reporting requirements in the M&R Regulation. ("No policy change"). Option 1 will maintain the focus of the regulation on installation-based GHG emissions reporting.

Option 2: Add production related data collection and reporting requirements. Develop respective reporting requirements for production data and power consumption. Develop respective definitions. ("Comprehensive change") The M&R Regulation is looking at GHG annual emissions. Introducing a parallel monitoring and reporting on production data will be confusing and add disproportionate costs for data that at best will be of partial use. The onus will be on the operator to report changes to different timescales compared to annual emissions/tonne-kilometers reporting. This is only required in the event of changes, for example when an operator decreases the capacity of a 'sub-installation' by more than 30%. Furthermore what could be confusing between the monitoring under this

regulation and the possible monitoring under the ETS benchmarking is that the reference unit for the latter is the "sub-installation" whereas in the M&R it is still the traditional "industrial installation". As more reporting templates might have to be developed, verification costs would be higher. There could be further concern related to the added commercial secrecy that is typically associated with production-related data.

With respect to Option 1 continuing with the present system will be cost neutral (Category III). Adopting Option 2 may result in increases in the order of 5 – 10% for reporting and in significant increases for verification, in the order of 50% (Category V). The range of savings is not unrealistic and again likely to be a comfortably conservative estimate. Definition of a very small installation could be suggested to be in the order of installations emitting less than 10,000 tCO_2 per year.

Option 1 maintains the focus of the regulation on installation-based GHG emissions reporting.

Option 2 would generate double track, risk of confusion and substantially higher cost for companies.

Option 1 is retained

3.3.8. Simplified Procedures and Requirements

In order to support cost-effectiveness with smaller emitters, the MRG details a number of reduced requirements for installations which emit less than 25kt of CO_2 annually.

Option 1: Maintain current simplified requirements of the MRG. ("No policy change") This option will not be sufficient in ensuring cost effectiveness for small emitters especially for its unequal implementation at the level of the Member States.

Option 2: Further simplified procedures and requirements will be developed. The main one is that the operator may submit a simplified monitoring plan to the Competent Authority. He may determine the amount of fuel or material by using purchasing record and estimated stock changes. He is also exempt from the requirement to provide an uncertainty assessment. He may apply as a minimum tier 1 for the purposes of determining activity data and calculation factors for all source streams and mass streams. He may use any laboratory that is technically competent. There will be an exemption concerning the improvement report for low emitting installations (less than 25,000 tonnes CO_2 per year excluding biomass and before any subtraction of transferred CO_2). The regulation will also make provision to allow simplified monitoring methodology for simple installations, for example, using fuels like natural gas and where no process emissions occur (standard factors for Net Calorific Values and Emission Factors). This will determine lower costs for small emitters. Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

The adoption of Option 2 will result in savings for small installations for the monitoring and reporting in the order of 5 -10 %, Category II, going also up to 50 % for some individual very small installations. In terms of verifications savings will be in the order of category I (significant reduction) with cost savings between € 1000 and € 2000.

Section 2.2 of the IA already sets the scene for special considerations for small emitters. Inclusion of an operational objective concerning simplified procedures and requirements for M&R confirms the priority attached to reducing unnecessary burdens and costs on small emitters. The cost of implementing EU ETS requirements overall are known to be disproportionately greater for small emitters and so every effort is being made to reduce the impact of the M&R Regulation to the extent allowed under Articles 14 of Directive 2003/87/EC. This will be further developed in the form of guidance and through the production of special templates and exemplars designed for 'off the shelf' use. These will additionally encourage a more consistent approach across different Member States and reduced the technical resource and cost burden on small emitters, as well as confidence in a more level playing field.

Option 1: it is not sufficient to ensure cost-effectiveness for small emitters

Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 2 is retained

3.3.9. Application of the Improvement Principle

The MRG contain provisions aimed at ensuring improvement of an installation's monitoring over time. There are two implementation approaches that support this in particular. The first is achieving improvement by moving towards higher quality stages in monitoring over time (until reaching the so called highest tier position). The second area of improvement concerns acting on recommendations supplied by the verifier to the operator in the verification report.

A common understanding is still missing among the Member States on how to treat the "improvement principle". This should address how the principle of monitoring methodology, in general, should be implemented and how recommendations of verifiers should be required and followed up. This is also closely related to the issue of how non-material misstatements and non-conformities should be addressed by the operator.

A common understanding on how to interpret unreasonable costs and technical infeasibility is developed. It should be assessed whether this needs to be updated. Best practice on the definition of technical infeasibility could come from the Belgium Flemish region.

Option 1: Maintain the MRG current requirements on the application of the Improvement Principle. ("No policy change") This option results in uneven implementation of the improvement principle. In this way dynamic and qualitative development of the EU ETS monitoring and reporting will not be ensured.

Option 2: Enhance the application of the improvement principle introducing, as part of the verification process, clear proposals to account for recommendations for improvement of the monitoring methodology and outstanding non-conformities and misstatements. ("Limited change") Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 2 is required in order to ensure compliance with current expectations under the MRG and the proposed M&R Regulation and to ensure fairness and a level playing field for all operators. It is reasonable for both the MRG and the proposed M&R Regulation to state default positions regarding minimum expectations for monitoring methodology (in order to ensure data of sufficient minimum quality to maintain confidence in the EU ETS and that a tonne reported is a tonne emitted). It is also reasonable that this is accompanied by contingencies for temporary derogation based on technical feasibility and not resulting in unreasonable costs. However, it is unreasonable to allow such derogation *ad infinitum* or for verifier recommendations for improvements to go ignored. Option 2 will protect from this happening and the resentment that goes with it.

Adoption of Option 2 will result in initial cost increases for both operators and verifiers. With respect to operators the initial costs will be in the order of Category IV (limited increase) but then they will be balanced by a more general confidence in the system even at international level resulting in Category II savings. With respect to verifiers they are expected to increase their workload by an average of 10 % at the beginning. This is a hypothetical and semi-quantitative estimate. It is also likely that the given estimate is a highly conservative one with actual average increases being less than 10% in reality. Observations on possible improvements that an operator could make are supposed to be something that a verifier makes during the course of their main verification in any case (so actual increase in costs could be argued to be even more minimal). The 10% estimate is purely to recognise that there may be a small impact on verifier time requirement as they become use to the confirmed additional requirement. It should be noted, however, that this is to become familiar with something that verifiers should have been doing all along under the MRG but which they often ignored. The overall benefit of adopting this option in terms of consistent approach and credibility of EU ETS will quickly outweigh any initial increases in costs.

Option 1: the maintenance of current situation would lead eventually to undermine the quality of the EU ETS M&R process

Option 2: Enhance the application of the improvement principle within the original requirements set-up by the IA of Directive 2009/29.

Option 2 is retained

3.3.10. Information Technology

There are also a number of barriers causing some Member States not to implement such IT functionalities. These barriers will need to be remedied in order to more closely harmonise ETS MRV across the Union. This could come in the form of either sharing of existing

systems or through joint development of new IT functionalities by a number of Member States (with or without Commission involvement). There are also Member States participating in the current project with less or no IT functionalities available in systems for MRV support. As barriers to define, buy, implement or develop such a system the following reasons were mentioned: lack of funding; shortage of staff; shortage of IT expertise and no long-term planning capability.

Significant staff savings and improved customer service are expected from moving to an IT system. There is a multitude of process, information and strategic advantages (both financial and non-financial) to the use of IT systems to support the MRV processes in the Member States.

Higher efficiency in the execution of compliance tasks and the streamlining of operations associated with existing regulation of stationary installations participating in EU Emissions Trading are to be achieved. Current methods are working at maximum capacity, incapable of further expansions to meet forthcoming EU ETS expansion needs (such as Aviation at the moment and perhaps Shipping in the future) and require considerable operator and CA staff effort to operate.

Reducing the reliance on external consultants to manage the regulatory workload for operators of stationary installations and for aircraft operators is another potential benefit.

Data handling as well as data quality generated by the software solution is delivered at a level of reliance that is most probably impossible to generate manually. The workload of the Competent Authority will be greatly reduced by the use of a well-designed IT system and the administrative burdens for the Operators and for the CAs will be reduced substantially.

The legal basis for the use of IT / data exchange for MRV is the following text from the revised EU ETS Directive 2009/29/EC Article 14(4): *"The Regulation referred to in paragraph 1 may include requirements on the use of automated systems and data exchange formats to harmonise communication on the monitoring plan, the annual emission report and the verification activities between the operator, the verifier and competent authorities."*

Option 1: No action is taken and the situation remains as it is in the MRG where an electronic protocol on the reporting of emissions has not been published. ("No policy change") This option will continue to promote an unequal approach to the use of IT in the framework of ETS MRV and it will hamper the process of comparability and exchange of best practices among operators.

Option 2: The Commission publishes standardised electronic templates or file format specifications for the purpose of submitting monitoring plans, annual emission reports and tonne-kilometre data reports, and for further types of communication between competent authority, operator, aircraft operator, verifier and accreditation body, as appropriate. The Commission activates appropriate quality control and procedures for the maintenance of the electronic templates and file format specifications it publishes. ("Limited policy change")

Best practices of IT systems and advanced templates with built-in, automated controls have the potential to substantially strengthen and improve the EU ETS compliance structure and practice. The development of the EU ETS reporting language (XETL) and the next steps towards the development of common IT tools with built-in (automated) controls will be most helpful for those MS that intend to set up IT systems for their own compliance processes.

Examples of claimed efficiency gains are: up to 8 man hours per installation per year for Competent Authorities and verifier combined; savings, depending on the installation size, in the region of €1.500 - €4.000 per year per operator.[14] The workload of the Competent Authority will be greatly reduced by the use of a well-designed IT system and the administrative burdens for the Operators and for the Competent Authorities will be reduced substantially.

At the level of the Commission some dedicated resources will be necessary but in a limited way (1/2 man/day over 3 months/year) to ensure the continuity and quality/safety of the IT system. The cost of the system itself is not relevant.

The adoption of Option 2 will result in a strong increase in quality of enforcement but there will be some initial increase in cost. In particular if the IT development will be limited mainly to standardized Excel templates in order to facilitate electronic reporting, costs will be in Category II: 10 – 20%. If IT changes will be more in the direction of developing XML dedicated reporting costs at the beginning will be in the order of Categories IV and V but then later on relevant savings in the order of Categories II and I will counter-balance initial expenses.

Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 1: it does not offer a correct support to the harmonisation of the EU ETS M&R

Option 2: it allows clear efficiency gains and involves limited costs at EU level

Option 2 is retained

3.4. Assessment of cumulative impacts of preferred options

Ensuring a common approach in order to guarantee environmental effectiveness and integrity of the system and improving cost-effectiveness. Meeting this objective will lead to higher distributional equity among installations across the EU. The selected policy options should all contribute to less discretion for Competent Authorities in considering monitoring and reporting plans and therefore greater equity in the way operators are treated and requirements are imposed upon them.

Seeking higher consistency and transparency, which, in the long-run, can lead to savings for all the stakeholders involved. Under the status quo option for monitoring, inconsistent

[14] ***Business Case ETERP,*** A common IT an answer to the case for change towards a fully electronic 'Emissions Trading Report Process, PwC, draft 07, 29 April 2011, p.12

approaches developed under the MRG will continue to advantage installations in some Member States over similar installations in other Member States, potentially affecting their competitiveness. Improving the consistency of required monitoring and reporting across similar sized and types of installation are very important to ensure fairness and equity of treatment. The broad range of approaches to permitting and compliance within different Member States has the potential to cause competitiveness concerns and a corresponding loss of confidence in the EU ETS. The favoured options should all provide greater certainty of requirements, leaving Member States, operators and verifiers less leeway for variations. The simplification of the existing provisions will further enhance the transparency of the system.

Improving cost effectiveness of monitoring and reporting standards, since they are assumed to enhance the trust in the reports to the market and would thereby positively albeit indirectly affect the efficiency of the market. Continuing with different reporting requirements means that some operators put more effort into reporting than others, potentially leading to concerns over 'fairness' with the current system. Some Competent Authorities reporting systems are more efficient than others e.g. paper based through to online reporting. This situation would remain with the status quo option. The selected policy options will deliver greater cost effectiveness and trust in the system by clarifying requirements associated with currently known areas of ambiguity and by confirming, where reasonable, allowed simplifications.

Finally we have to state that costs have been considered in isolation. Accumulated cost consideration would not be scientifically sound and would not particularly add value as we are looking to justify selection of a particular option within standalone operational objectives.

With respect to the 9 M&R topics below **5 categories** have been developed in relation to **perceived effects on necessary man-power and financial cost resources**. The categories were validated through selected interviews with representatives from Competent Authorities, Verifiers and ETS Compliance Forum Secretariat.

I. Significant reduction in costs and necessary resources.
II. Some reduction in costs and necessary resources
III. No expected change in costs and necessary resources
IV. Some increase in costs and necessary resources
V. Significant increase in costs and necessary resources

Table 4 - Overview summary

Policy options	**No Policy Change**	**Change**	**Costs/savings**
Uncertainty Assessments	Maintain MRG	Pragmatic change *	Category I
Unreasonable costs	Maintain MRG	Clarify how to calculate *	Category II

Transfer of CO_2	Maintain MRG	Regulate transfer *	Category III
Solid and liquid biomass	Maintain MRG	Update biomass definition including sustainability criteria*	Category IV
Sampling Approach and Frequency	Maintain MRG *	Clarify the sampling requirements	Category III
Reporting production related data	Maintain MRG *	Add production data requirements	Category III
Simplified Procedures and Requirements	Maintain MRG	Further simplification*	Categories II and I
Application of the Improvement Principle	Maintain MRG	Enhance improvement principle *	Category II
Information Technology	No action taken	IT/data exchange for ETS MRV *	Categories II and I

* Preferred options

4. ACCREDITATION AND VERIFICATION REGULATION

4.1. General policy objectives

The specific objectives for accreditation and verification were as well previously identified in the impact assessment accompanying the proposal for Directive 2009/29/EC. These are:

- Establishing a consistent and comparable level of accreditation and verification;
- Harmonising internal market for accreditation and verification services;
- Improving cost-effectiveness.

The MRG lays down the basic approach for verification activities in line with the criteria for verification defined in Annex V of the EU ETS Directive. Based on the steps outlined in Annex V, combined with relevant auditing experience in other domains, especially in financial auditing, the European cooperation for Accreditation (EA) has developed detailed guidance on the assessment and accreditation of verifiers and verification bodies for EU ETS (EA document EA 6/03). In 2007 this guidance was formally recognised in the new MRG and now forms the basis for EU ETS accreditation and verification in most MS.

The basic verification steps required under Annex V of the EU ETS Directive, the MRG and EA-6/03 are followed in all MS. However, differences arise in the specific implementation of certain accreditation and verification activities. The Accreditation and Verification Regulation provides an opportunity to promote a more common understanding of requirements and to remove scope for unnecessary differences in approach.

4.2. Specific and operational objectives

Establish the accreditation requirements

Operational objectives:

- Accreditation of verifiers;
- Mutual recognition of verifiers;
- Peer evaluation of Accreditation Bodies;
- On-going supervision of verifiers and corrective measure.

Establish the verification requirements

Operational objectives

- Risk analysis;
- Simplified procedures and requirements;
- Single verifier issue and independent technical review;

- Content of the Verification Report.

All of the operational objectives covered seek to address the issues discussed in section 2.1 (problem definition) of the IA, such as:

1. a reduction of variation between Member States policies on accreditation and verification;
2. building up an even more level playing field;
3. reaching improved environmental integrity.

(i) All of the proposed options can be considered to address these issues as well as all of the general policy objectives set for A&V in section 4.1, namely, establishing a consistent and comparable level of accreditation and verification; harmonising internal market for accreditation and verification services and improving cost effectiveness.

This will result in greater harmonisation and commonality of systems to reduce costs and achieve transparency in relation to quality and consistency of data to provide even more trust in EU ETS.

Table 5 – Links between problems and operational objectives and options

		OPERATIONAL OBJECTIVES	
		Accreditation requirements	**Verifications requirements**
GENERAL POLICY PROBLEMS	**Reducing variation reduction between MSs policies**	The issue of *accreditation of verifiers* this will provide clear requirements for the accreditation of legal persons and certification of verifiers as natural persons.	The objective of *simplified procedures and requirements* is linked to this problem (but also to the *building-up of an even more level playing field*) facilitating a more coherent implementation to this aspect of verification practices.
	Improving level playing field	Regarding the objective of *mutual recognition of verifiers*, this measure will be key in ensuring the opening-up of the EU market for verification of annual GHG emissions reports.	The link with the *content of the verification report* is very much related to this problem, where verifiers in different MSs (and operators) will have to comply with the same requirements and proposed measures resulting in a more efficient and transparent exercise.
	Improving environmental integrity	The objective related to *peer-evaluation of accreditation bodies* will have an impact on the quality of operations of accreditation bodies, therefore improving also the quality of verification activities and, doing so, the environmental	The objective on *risk analysis* is linked in particular because it will facilitate the setting up of clarified requirements for both the verifier's strategic analysis and risk analysis. In addition, it is important to

		integrity. There is a link also with the objective of having *on-going supervision of verifiers and corrective measure*. An effective system for exchange of views between the Accreditation Bodies and the Competent Authorities will be established contributing to the overall improvement of the quality of the system.	consider the very positive impact on the quality of verification provided by the objective of the *single verifier issue and the independent technical review.*

The operational objectives covered represent the known relevant issues, based on stakeholder feedback, and were established following the on-line consultation. Omissions would beg the question as to why an issue deemed relevant in these related circumstances is then ignored in the IA. The number of options concerning each operational objective has usually been restricted to the minimum of two; the nearest thing to a status quo baseline position and then next most applicable or optimal alternative. Section 2.1 of the IA points out the relevance of considering the status quo position. The regular references to particular options (the selected ones) being "fully in line with the original requirements set-up by the IA of Directive 2009/29/EU" should be read as fully compliant with the general policy objectives specified for the A&V Regulation.

(ii) The options for operational objectives considered of most significant likely impact are already preceded by more lengthy introductory text to establish the particular concern.

(iii) The options discussed all propose to meet the stated requirements of Article 15 of Directive 2003/87/EC (and its corresponding Annex V).

4.3. Policy options

Policy options are presented for the operational objectives outlined in section 4.2. The range of presented policy options is proportionate to an already well understood position based on:

1. The requirements for monitoring and reporting (MR), and for accreditation and verification (AV), set out in Articles 14 and 15 respectively of Directive 2003/87/EC;
2. Six years of operational stakeholder experience with the EU ETS, including in relation to the requirements of Commission Decision 2007/589/EC (the EU ETS M&R Guidelines) and its predecessor;
3. Information reported in conclusion to Commission reviews concerning implementation of EU ETS MRVA and compliance cycle requirements (most

pertinently last year's Support to the Commission for the Review of Permits, Monitoring Plans and Verification Reports in the EU ETS at the level of Member States for the 2008-2009 Compliance Cycle), ref: section 1.2 of the IA;

4. Technical Working Group stakeholder (including other relevant Commission DG) consultation during the drafting of the two Regulations, and feedback from the wider technical consultations held in conjunction with the Stakeholder Workshops (M&R Regulation on 3 May, A&V Regulation 4 May), ref: section 1.3 of the IA;
5. Response to the on-line consultation, ref: section 1.4 of the IA.

Section 3.3 of the IA explains that only two options are generally presented for each of the identified operational objectives. Absence of an equivalent to Commission Decision 2007/598/EC for A&V makes selection of a baseline position less clear-cut, but it has nevertheless been possible to present one option to reflect the majority position and at least one other to represent the next most applicable or optimal alternative. Again, this provides a logical approach to the starting point and alternatives. Options are entirely based on items (1) to (5) above.

No options favoured by the majority of stakeholders are discarded, as this would tend to exacerbate potential problems regarding achievement of greater consistency, harmonisation and cost-effectiveness.

4.3.1. Analysis and examples

(i) The number of small scale emitters in the EU ETS is around 50% with respect to the 11,500 fixed installations and 80% with respect to the 4,000 aircraft operators.

(ii) "Gold-plating" examples from Member States' practices that may lead to excessive costs for operators.

Example provided by Germany:

Accreditation of Verifiers. In Germany there is no specific accreditation body nominated for the EU ETS; instead, several accreditation routes have been established with already existing institutions. In principle there are three routes for the accreditation of verifiers: EMAS-verifiers or EMAS verification bodies, who have been accredited by the German Accreditation Body of Environmental Verifiers (DAU), can act as EU ETS verifiers as well as officially appointed and sworn experts ("*öffentlich bestellt und vereidigte Sachverständige*") for verification under the EU ETS which have been approved by their local chamber of commerce (IHK).

Coordinated control activities of accreditation bodies do not exist. IHKs control themselves to a certain extent, due to the engagement of honorary active

members. Official control of legality is carried out by the appropriate Federal Ministry of Commerce. IHKs are corporations under public law and have to follow the German ETS legislation. DAU Accreditation body is legitimated by the Federal Environment Ministry.

Example provided by Portugal

Reporting and Verification. The number of man days a verifier has to spend on the verification of a specific installation, has to be determined using a table which considers factors like sector, annual emissions, number of sources among others. This concept has been introduced in the first trading period, in order to avoid low-price verifications, which, due to their short duration cannot provide the necessary quality. This measure had quite an impact on prices and costs of verification for operators.

(iii) With respect to verification costs, original 2006 estimates[15] that reached an average cost in the order of € 800 and € 1000 per fixed installation and per year are still justified. Equally the average verification time for the more than 11,500 installations is confirmed as a 3-4 days process.

Some NGOs have been challenging from time to time the issue of independence of verifiers accusing them of broader business relations and "proximity" with the industrial or aviation operators. No clear evidence is available with respect to this issue at the level of the Member States. However, the proposed accreditation framework developed by the A&V Regulation is supposed to respond to this problem ensuring that the competence and independence of verifiers is confirmed.

With the following text specific examples are given for each of the issues taken into account:

1. Accreditation of verifiers;
2. Mutual recognition of verifiers;
3. Peer-evaluation of Accreditation Bodies;
4. On-going supervision of verifiers and corrective measures;
5. Risk-analysis;
6. Simplified procedures and requirements;
7. Single verifier issue and independent technical review;

[15] PwC, 2006 ETS Compliance Review Report

8. Content of the verification report.

4.3.2. Accreditation of Verifiers

On the 1st of January 2010, Accreditation Regulation (EC) No 765/2008 went into effect. This framework accreditation Regulation contains general requirements on the accreditation of certification bodies. This framework Regulation is also highly relevant for the accreditation under EU ETS. It requires that all Member States have one national Accreditation Body with public authority and furthermore that this body is a member of the EA. Unlike the initial 2003 ETS Directive, the revised EU ETS Directive provides a legal basis for setting up an EU ETS accreditation scheme by empowering the Commission to draft an accreditation and verification regulation. This EU ETS specific accreditation scheme should be in place by 2013, when the A&V Regulation for EU ETS also comes into effect.

The CCEV 2010 report showed that in nineteen Member States (84% of emissions) verifiers are formally accredited, whereby in sixteen (57% of emissions) of these Member States the EA approach for accrediting EU ETS verifiers is used. Of the three Member States which use accreditation but are no EA members for the EU ETS, one has implemented approaches very similar to EA accreditation requirements and two Member States have implemented strongly differing approaches. Eight Member States (14% of emission) use authorization. Out of these eight Member States, three smaller Member States do not have an own Accreditation Body for the EU ETS, and they authorize therefore only foreign verifiers to carry out verification activities. In two further Member States verification is carried out by the Competent Authority, and therefore no accreditation or authorization structures exist.

According to the MRG, a verifier is defined as "*a competent, independent, accredited verification body or person with responsibility for performing and reporting on the verification process*". No further requirements are mentioned in the MRG on accreditation, mainly because the 2003 EU ETS Directive itself did not provide a clear legal basis. As a consequence, Member States have used different approaches to accredit verifiers.

Article 15 of Directive 2009/29/EC gives a clear indication with respect to accreditation of verifiers *"the Commission shall adopt a regulation for […] the accreditation and supervision of verifiers."*

Option 1: Confirmation of verifiers is limited solely to Accreditation Bodies. Option 1 will restrict the scope of this policy only to legal persons, therefore excluding from the system verifiers as natural persons is the option explicitly mentioned in Article 15 of Directive 2009/29/EC. Option 1 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 2: Confirmation of verifiers is extended also to national licensing bodies to accommodate the historic arrangements affecting a small number of Member States. This option comply fully with Article 15 of Directive 2009/29/EC and with Article 5.2 of Council Regulation 765/2008/EC, the framework legislation related to accreditation. This will improve the system opening up to certification of verifiers, as natural persons, a parallel and equivalent approach to accreditation.

The adoption of Option 1, the switching to Accreditation only may incur additional costs in some cases, but licensing (Option 2) could be expensive too due to inconsistency costs,

therefore we can envisage a Category IV for both options. Cost of accreditation of verification bodies is in the order of € 10000 per year. Furthermore Option 2 in some specific Member States could reduce competition and at the end result in increasing verification costs.

Option 1: is the option explicitly mentioned in Article 15 of Directive 2009/29/EC but with a limited scope

Option 2: This option is foreseen by Article 15 of Directive 2009/29/EC and by Article 5.2 of Regulation 765/2008/EC.

Option 2 is retained

4.3.3. Mutual Recognition of Verifiers

A legal basis for mutual Member States acceptance of verifiers under the ETS Directive is developed by Article 15 of Directive 2009/29/EC. This would include the (local) surveillance of foreign verifiers and the exchange of information between the Accreditation Bodies and the Competent Authorities of respective Member States where the verifier is active. Local surveillance of foreign verifiers refers to the checks that may also be required on a verifier accredited by an Accreditation Body in one Member State when the verifier is working in another Member State.

Three Member States require foreign verifiers to take the national accreditation route, which is not in line with Accreditation Regulation (EC) No 765/2008, which requires each Member State to accept the accreditation certificate in case this Accreditation Body successfully underwent an EA peer review. Rejecting verifiers or subjecting them to additional requirements, that exclude those foreign verifiers without due cause, would also be difficult to justify given the requirements free movement of services and service providers pursuant to the Services Directive. While neither the MRG nor the EA 6/03 contain requirements on mutual acceptance of verifiers some Member State impose additional conditions to be fulfilled by foreign verifiers, mostly language-related while sometimes evidence of the accreditation and additional information are also required.

Six Member States survey the foreign verifiers. Others would only do so if asked by the AB which accredited the foreign verifiers. At least eight Member States have a policy, that in case non-conformities would occur with a foreign verifier, the Accreditation Body which accredited the verifier would be informed. With regards to foreign verifiers, thirteen Member States (48% of emissions) accept verifiers that have been accredited by other EA members against a standard with EA6/03 in scope, while two Member States accept foreign verifiers with any kind of accreditation/authorization.

Option 1: Mutual recognition of verifiers not linked to accreditation. This option is not taking into account the requirements set-up by the Directive 2009/29/EC: "The Commission […] shall specify conditions […] for mutual recognition

Option 2: Mutual recognition of verifiers if they are accredited by Accreditation Bodies who have been subject to successful peer evaluation. According to the Council Regulation, 2008/765/EC verifiers who have been accredited by a successfully peer reviewed Accreditation Body must be mutually accepted across all Member States. The Accreditation Bodies develops feedback loops on performance of verifiers. This option will facilitate free movement of verifiers of comparable level of quality. In contrast to Option 1, this option will promote overall harmonisation with respect to the quality of verifiers and the verifications carried out.

Option 2 is considered the baseline position regarding mutual acceptance of verifiers as this represents the most sensible accommodation of the stated requirement under Article 15 of Directive 2003/87/EC, and also taking into account related requirements in accordance with Regulation (EC) No 2008/765 and the Services Directive 2006/123/EC. Adoption of Option 2 will fully satisfy Internal Market and competition issues. Cost savings will be in the order of Category II. Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 1: This option does not match the requirements foreseen by Article 15 of Directive 2009/29/EC.

Option 2: It will promote overall harmonisation with respect to the quality of verifiers and the verifications carried out in line the requirements foreseen by Article 15 of Directive 2009/29/EC.

Option 2 is retained.

4.3.4. Peer Evaluation of Accreditation Bodies

Peer reviews and exchange programs for CA and AB staff can be very effective in providing support for a better understanding of approaches applied in other Member States. However, it requires the financial and human resources that allow providing that support in capacity building and training. Exchange programs would be useful for CAs on how to organize and structure the review process and details of the MPs and the AER/ VR review activities as well as set up inspection activities.

The 2008 Council Accreditation Regulation (EC) No 2008/765 requires all national accreditation bodies to subject themselves to a peer evaluation as organised by the body

recognized under Article 14 of the Accreditation regulation. For the first period this will be EA.[16] "

According to Article 10(2) and (3) of Regulation (EC) No 765/2008, Member States shall ensure that their national accreditation bodies regularly undergo peer evaluation which shall be operated on the basis of sound and transparent evaluation criteria and procedures, especially concerning, structural, human resource and process requirements, confidentiality and complaints. Appropriate appeals procedures against decisions taken as a result of the evaluation shall be provided for.

Article 10 of Regulation (EU) No 765/2008 implies that changes should be made in the peer evaluation system now currently applied by the EA. These changes should be welcomed since it strengthens the peer evaluation process and makes the process more rigorous and transparent. According to article 13(2) of regulation (EC) No 765/2008, the Commission may request the EA to lay down evaluation criteria for peer evaluation and to develop accreditation schemes.

The EA Multilateral Agreement on evaluation and re-evaluation of EA members is not EU ETS specific. If evaluation criteria for peer evaluation are to be developed more guidance is needed to make the peer evaluation more rigorous and more EU ETS specific (i.e. competences of peer evaluators, who to report to in EU ETS during and after the peer evaluation, what to assess during an EU ETS peer evaluation etc.). EU ETS specific criteria for peer evaluation are needed since a successful peer evaluation will mean under the new accreditation regulation that the verifiers accredited by those accreditation bodies have free access to the market and cannot be refused.

Option 1: The Peer Evaluation exercise of Accreditation Bodies is an exclusive matter of the EA. The EA is by default running peer evaluation exercises among its members on a regular basis. Leaving it to its routine exercise could risk not taking into account relevant input from Competent Authorities on specific requirements related to the EU ETS.

Option 2: Specific requirements under the EU ETS should be developed within the Peer Evaluation exercise of Accreditation Bodies. This option will allow the EA to implement more appropriate peer evaluation criteria in accordance with EU ETS requirements. These will include: EU ETS competence requirements for peer evaluators and the team; assessment of the competence and performance of accreditation bodies against the EU ETS Accreditation and Verification Regulation, with due and reasoned reference to ISO 17011 and other documents relevant to EU ETS. The overall impact will be to enhance consistency in the accreditation of EU ETS verifiers and to improve effectiveness. Detailed specific requirements will be developed by the Commission and the EA through guidance. Moreover this exercise will be part of the broader regular peer-review exercise run by the EA in the framework of the implementation of Council Regulation 2008/765 dealing with accreditation in general. Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

[16] Article 10 (1) Proposed accreditation regulation.
[17] Article 10 (1) Proposed accreditation regulation.

The adoption of Option 2 is very necessary for an efficient functioning of the system. Costs will be negligible and could fall in the cost neutral section (Category III). This is due to the fact that already Accreditation Bodies are undergoing Peer Evaluation.

Option 1: This option will limit the effectiveness of the system.

Option 2: This option will allow the EA to implement more appropriate peer evaluation criteria in accordance with EU ETS requirements

Option 2 is retained.

4.3.5. On-going Supervision of Verifiers and Corrective Measures

The CAs, which have established ETS-specific in-depth knowledge and bear the overall responsibility for the functioning of the system, get information on the performance of verifiers and the quality of the audits by assessing the operator's annual emissions reports together with the verification reports. Therefore CAs should be entitled to undertake further investigations to evaluate the quality of the audits to contribute to the maintenance and improvement of the verifications/audits. Such evaluation is in line with the current Monitoring & Reporting Guidelines:*"The internal verification report should as well facilitate a potential evaluation of the audit by the competent authority and accreditation body."* (Annex I, section 10.4.2 lit. (d))

In the sixteen Member States that are members of the EA, each verification body is surveyed between 6-12 months (specific time period varies among Member States) after the initial accreditation and then regularly every 12-18 months until the re-accreditation is due. In eleven Member States surveillance consists of both an office audit and a witness, while in five cases it consists only of an office audit. It seems that some Member States rather place the focus on an office audit whereby one Member State even stated that the office audit provided more insight than the witness, while others feel that a witness is indispensable.

Examples of information exchange from the Accreditation Body to the Competent Authority could be accreditation details, outcome of peer evaluation, serious incidents during accreditation and reassessment and a management report. Examples of information exchange between the Competent authority and the Accreditation Body could be findings from inspection and enforcement that are relevant to know to an Accreditation Body, complaints of an operator about a verifier, outcome review of emissions report and verification report as well as recommendations.

Regarding the outcome of the evaluation of the verifier/audit by the CAs, or just in cases of doubts concerning the audit quality, it is necessary to establish an explicit right of complaints for CAs submitted to the ABs. Furthermore the ABs should be required to give qualified responds to complaints within a certain timeframe. Qualified response means, that the AB has

to substantiate which further surveillance actions have been taken (e.g. reassessment, suspension, withdrawal) or why the AB decided not to take further action.

Option 1: Competent Authorities should be entitled to evaluate the quality of audits and to make further investigation if underperforming verifiers are detected. This option could result in overlapping responsibilities between the different institutions involved. This will affect the overall efficiency of the system.

Option 2: Supervision of verifiers is limited to Accreditation Bodies. The standard ISO 17011, which requires Accreditation Bodies to carry out surveillance, leaves room for interpretation on the frequency of surveillance and how surveillance is carried out. The lack of input from CAs could result in failure to secure useful additional insight from them and insufficient quality of verification. This option will not address sufficiently the effectiveness of the M&R Regulation due to the fact that Accreditation Bodies are not completely aware about the EU ETS.

Option 3: With respect to supervision of verifiers, an effective system for exchange of views between the Accreditation Bodies and the Competent Authorities should be established. Therefore, the A&V Regulation will set requirements for information exchange between CAs and Accreditation Bodies. This option will improve communication on transparency and status of accreditation of verifiers, setting clear requirements for all Member States. It will also maximise useful exchange of information between Accreditation Bodies and CAs in a cost efficient manner and without duplication of roles. Option 3 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

There is no real baseline option concerning on-going supervision of verifiers and corrective measures (section 4.3.4). Current practice varies greatly from Member State to Member State, but Option 3 is sensible in terms of offering the greatest cost effectiveness, the least duplication between competent authorities and accreditation bodies, and the 'middle way' ". It is not clear how the clarity of this section can be helpfully enhanced. On-going supervision of verifiers, once they are accredited, is another requirement under Article 15 of Directive 2003/87/EC (to check they continue to abide by their accredited procedures and specific requirements for impartiality and independence and competencies among others. This operational objective is really exploring the optimal level of competent authority to accreditation body inter-relation to best achieve this responsibility (and whose ultimate responsibility the requirement really is).

The adoption of Option 1 (supervision of verifiers by Competent Authorities) could result in ½ man/day average increase per installation resulting in Categories IV to V costs, Option 3 is definitely more efficient than the others resulting in “everybody doing his own job” and in savings between Categories II and I.

Option 1: This option will affect the overall efficiency of the system.

Option 2: This option could result in insufficient quality of verification

<u>Option 3:</u> It will improve in a cost efficient manner communication on transparency and status of accreditation of verifiers, setting clear requirements for all Member States

<u>Option 3 is retained.</u>

4.3.6. Risk Analysis

Both sections 5.3.2 of EA 6-03 as well as Annex I, section 10.4.2 (b) of the MRG contain general requirements on the verifier's risk analysis. The verifier has to assess the likely level of risks of material misstatements in the emission reports and material non conformities. In fact the verifier identifies and assesses the inherent risks[18], control risks[19] and detection risk[20] which all need to be taken into account to determine the verification risk[21].

Based on the risk analysis the verifier drafts the verification plan and determines his verification activities (e.g. sampling, nature, timing, extent of testing of the operator's control activities, site visits). The verifier's risk analysis is an iterative process. As a result of findings during the verification it should be amended if necessary.

According to Annex V of the EU ETS Directive and the MRG, the verifier is required to perform a risk analysis, which means analysing the risk of data reported by an EU ETS operator being misstated or not collected in conformance with the approved monitoring methodology. The risk analysis establishes the verification programme and data sampling a verifier will need to carry out to reach a satisfactory verification opinion. However, the MRG does not provide detailed provisions on how the verifier should perform the risk analysis.

Option 1: Maintain the generic requirements stated in the MRG Section 10.4.2 (b). ("No policy change") An effective risk analysis exercise is important for the overall planning of the verification exercise. A risk analysis process that does not properly take into account strategic analysis and the risk assessment of the operator could result in either a flawed verification opinion or an incomplete verification exercise requiring need to repeat part of the process and additional costs for the operator.

Option 2: Develop more specific requirements related to the strategic analysis, and to the risk assessment of the operator including recommendations for improvement. This

[18] Inherent risk means the susceptibility of a parameter in the annual emission report to material misstatements assuming that there were no related control activities (section 2 (5) (c) MRG).

[19] Control risks means the susceptibility of a parameter in the Emission report to material misstatements that will not be prevented or detected and corrected on a timely basis by the control system (section 2 (5)a) MRG).

[20] Detection risk means the risk that the verifier will not detect a material misstatement or a material non-conformity (section 2 (5) (b) MRG).

[21] Verification risk means the risk that the verifier expresses an inappropriate verification opinion. Verification risk is a function of inherent risks, control risks, and the detection risk (section 2 (5) (d) MRG).

option will set clarified requirements for both the verifier's Strategic Analysis and Risk Analysis in line with EA 6/03. It will describe and how the Strategic Analysis and Risk Analysis relate and feed into the subsequently required verification activities (controls and data testing). It links more clearly to the risk assessment made by Operators. It is a more comprehensive basis for assessing risk, helping verifiers to concentrate their efforts where data might have been misstated or erroneously collected. This will result in greater effectiveness and efficiency of verification. This option is already used by a majority of Member States with an acceptable level of impact. Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Adoption of Option 2 will result in better focusing on objectives that really matter. With respect to verification it should further decrease costs: in the order of ½ man day per year. It could be placed in the order of Category I.

Option 1: This option will limit the effectiveness of the system.

Option 2: This option will set clarified requirements for both the verifier's Strategic Analysis and Risk Analysis in line with EA 6/03

Option 2 is retained.

4.3.7. Simplified Procedures and Requirements

The CCEV suggested that Member States exchange their approaches and views on when to waive site visits and how they see this as a balance between cost-effectiveness and quality. A waiver of site visits should be up to the verifier, who should provide a proper justification to the CA based his risk assessment. The CCEV found that the majority of Member States requires a site visit for all installations. In one Member State the waiving of the visit can apparently be applied under clear conditions, but the central CA will not necessarily be informed if this happens.

In nineteen Member States, a site visit is legally required and practiced for all installations. Among the 10 MS allowing to waive site visits the strictness of approaches vary and include the requirement of the explicit approval of the CA to waive the site visit based on very to moderately strict conditions as well as the option to waive the site visit without the approval of the CA, but based on clear conditions.

The MRG states that the verifier shall conduct a site visit, when appropriate, to inspect the operation of the monitoring systems. For small emitters, the MRG allows Member States to decide whether waiving a site visit can be granted. However, this approach has not resulted in a common agreed practice, making it again difficult to achieve a common-level playing field.

Option 1: Member States may allow verifiers to use simplified verification plans and procedures for operators and aircraft operators if certain conditions to be confirmed (by the Commission) are met. This option will offer considerable scope for reduction of verification costs. It provides possibility for allowing greater waive of site visits under certain conditions for small and simple installations (still based on risk analysis). Option 1 is fully in line with the original requirements set-up by the IA of Directive 2009/29**.**

Option 2: Simplified verification is not allowed. This option will continue to impose significant and disproportionate costs on small emitters, resulting in a considerable low efficiency of the system and no real added-value.

The adoption of Option 1 could be in the order of activating savings between Categories II and I. With respect to selected small emitters, this could result even in the saving of 1 man/day for verification.

Section 2.2 of the IA already sets the scene for special considerations for small emitters. Inclusion of an operational objective concerning simplified procedures and requirements for A&V confirms the priority attached to reducing unnecessary burdens and costs on small emitters. The cost of implementing EU ETS requirements overall are known to be disproportionately greater for small emitters and so every effort is being made to reduce the impact of the A&V Regulation to the extent allowed under Article 15 of Directive 2003/87/EC. This will be further developed in the form of guidance and through the production of special templates and exemplars designed for 'off the shelf' use. These will additionally encourage a more consistent approach across different Member States and reduced the technical resource and cost burden on small emitters, as well as confidence in a more level playing field.

Option 1: It allows verifiers to use simplified verification plans and procedures if certain conditions to be confirmed (by the Commission) are met.

Option 2: This option will limit the efficiency of the system.

Option 1 is retained

4.3.8. Single Verifier Issue and Independent Technical Review

According to the MRG a verifier means a competent, independent, accredited verification body or person with responsibility for performing and reporting on the verification process, in accordance with the detailed requirements established by the Member State pursuant to Annex V of the Directive 2003/87/EC. Given this definition a verifier could also be a single person (hereafter: "single verifier") provided that he has all the competencies required and he meets the process criteria. A single verifier should also be a legal entity.

In Germany[22], there are two procedures for the accreditation of verifiers: EMAS-verifiers, who have been accredited by the German Accreditation Body of Environmental Verifiers (DAU) can act as EU-ETS verifiers, and so can experts ("Sachverständige") for verification under the EU-ETS which have been approved ("bestellt") by their local Chamber of Commerce. The routes both cover issues like the EU-ETS Directive, the MRG as well as a large number of relevant technical standards (e.g. ISO)[23]. The first route is under the German Environmental Auditing Law, the second under the Trade, Commerce and Industry Regulation Act. In both cases only an application with the DEHSt for a listing as an EU-ETS verifier is necessary to be allowed to perform verifications under the EU-ETS. The DEHSt will not require further exams or checks. The listing serves as formal acceptance and allows verification activities only for the scope, which was covered under the exams taken under the two routes (e.g. specific NACE-codes). The accreditation is not limited time-wise and there are no reviews of a verifier's performance after he has been listed. Currently around 140 verifiers are listed with the DEHSt. Besides verification of emission reports, verifiers can also be accredited for the verification of allocation applications, which also has to be verified in Germany. In most cases, verifiers are listed for both activities.

In the period between 2010 and 2013 the Accreditation Regulation will not apply immediately to current non-EA members that have single verifiers. This will be the case as from 2013 when the Accreditation and Verification Regulation to be prepared under the revised EU ETS Directive will refer to the Accreditation Regulation and require verifiers in all Member States to be accredited. From 2013 onwards the EU ETS accreditation scheme for EU ETS under the Accreditation Regulation (EC) No 765/2008 will apply. When setting up an accreditation scheme for EU ETS attention should be paid to the position of single verifiers.

According to section 5.5 of EA 6/03 the draft verification report shall be subjected to an independent review prior to a decision being made to issue the verification report, unless regulated differently in national legislation. The process of an independent review serves a proof reading function. It is perceived to be a crucial concept for all verifications in all sectors and for all levels of complexity (hence assessment of risk cannot lead to fully deleting the step in the verification process).

Another option would be to waive the technical review in certain cases, such as when a verifier verifies for example simple and small installations emitting less than 25,000 tonnes of CO_2 per year.

An independent review should not be waived for single verifiers. Especially for complex installations and large installations, independent review is an important quality assurance instrument that is needed to provide a final check and correct mistakes. Single verifiers are more prone to pressure by market players. Independent review would therefore also be an important quality assurance instrument for single verifiers.

[22] Source: Evaluation Project of the Second Verification Cycle (by PwC, Member State fiche drafted by Ecofys, 2008)

[23] These do not cover EA 6/03 and ISO 45011.

Accreditation Regulation (EC) No 765/2008 sees to the accreditation of conformity assessment bodies. Conformity assessment body means a body that performs conformity assessment activities including calibration, testing, certification and inspection.[24] This seems to imply that persons performing conformity assessment activities are not allowed under the new accreditation framework. However, if single verifier were to organize themselves as a body by becoming a legal entity common understanding could lead to the interpretation that a conformity assessment body under the accreditation regulation may also be an individual. Section 3.3.3 of ISO 14065 even explicitly mentions that a verification body could be a person.

The competence process should also be applicable to single verifiers so that the single verifier sees to it that he remains competent to perform the verification activities and documents how he meets the competence requirements and what he is doing to keep himself up to date. However, some parts of the competence process such as continuously monitoring competence of single verifiers by performing internal audits and observations could be hard to meet for single verifiers.

Austria and Germany were of the opinion that independent review for single verifiers does not have added value and would lead to extra costs since single verifiers have to hire somebody to do the independent review in that case.

Option 1: Single verifiers) are allowed to perform verification and no Independent Technical Review is required. This option will result in lowering considerably the effectiveness of the verification exercise. According to the EA 6/03 the draft verification report shall be subjected to an independent review prior to a decision being made to issue the verification report, unless regulated differently in national legislation. The process of an independent review serves a proof reading function. It is perceived to be a crucial concept for all verifications in all sectors and for all levels of complexity (hence assessment of risk cannot lead to fully deleting the step in the verification process).

Option 2: Single verifiers are allowed to perform verification and an Independent Technical Review is required. Regulation 765/2008 covers the accreditation of conformity assessment bodies. Conformity assessment body means a body that performs conformity assessment activities including calibration, testing, certification and inspection.[25] This seems to imply that persons performing conformity assessment activities are not allowed under the new accreditation framework. However, if single verifier were to organize themselves as a body by becoming a legal entity, common understanding could lead to the interpretation that a conformity assessment body under the accreditation regulation may also be an individual. Section 3.3.3 of ISO 14065 even explicitly mentions that a verification body can be a person. Moreover a single verifier can be certified as a natural person even in this case independent technical review, as any other equivalent requirement to accreditation, will have to be put in place.

An independent review should not be waived for single verifiers. Especially for complex installations and large installations independent review is an important quality assurance

[24] Article 2 (16) AR
[25] Article 2 (16) AR

instrument that is needed to provide a final check and correct mistakes. Single verifiers are more prone to pressure of the market. Independent review would therefore also be an important quality assurance instrument for single verifiers. Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29

The adoption of Option 2 will result in Categories II to I savings and increased confidence in the system. The cost of not having Independent Technical Review (Option 1) could result in more mistakes and litigation from the verification side, therefore falling into Category V.

Option 1: This option will limit the effectiveness of the system.

Option 2: Single verifiers (as legal person only) are allowed to perform verification and an Independent Technical Review is required to guarantee Quality assurance

Option 2 is retained

4.3.9. Content of the verification report

Section 10.4.2 (e) of the MRG states basic requirements regarding the content of the verification report, including the verification methodology, the findings and the verification opinion. However, the MRG does not include detailed provisions on what information or level of detail needs to be provided. The result is that there is no common approach regarding the contents and level of detail of a verification report, again making it difficult to achieve confidence that there is a common-level playing field.

Nineteen Member States provide a template for the verification report, covering most of the MRG requirements. Several Member States used the template developed by the UK, although different optimisations were made. The remainder of Member States provides lists with minimum requirements which also generally comply with the MRG. These minimum requirements were found to be rather focused on the verification opinion and did not require detailed information concerning the verification methodology.

A set of common requirements is developed in the A&V Regulation. Such requirements should be based on the current verification report requirements in the EA 6/03 and include information allowing to understand the approaches used by the verifier and findings on at least a medium level of detail.

An exemplary template and guidance with a number of sectoral examples could greatly support implementation of the more precise requirements on how to include recommendations, reporting on open non-material misstatements and non-conformities in the verification report and how CAs should address these.

Option 1: Maintain the generic requirements stated in the MRG Section 10.4.2 (e). ("No policy change"). This option results in lack of consistencies and non transparencies with respect to the verification exercise. This will have an impact on the effectiveness and efficiency of the system as well as on the mutual recognition of accredited verifiers

Option 2: Develop a more detailed list of requirements related to the content of the Verification Report. A set of common requirements is developed in the A&V Regulation. Such requirements should be based on the current verification report requirements in the EA 6/03 and based on existing best practices. They include sufficient information to allow understanding of the approaches used by the verifier and of the findings and decisions, to at least a medium level of detail.

The main elements and additional information will be related to site visits, verification team, technical reviewer, confirmation of principles, list of fuels and recommendations for improvement. In particular the report should consist of the following: confirmation of the objectives of the verification; the scope of the verification; criteria which were used to verify the operator's or aircraft operator's report, including the permit, where applicable, and versions of the monitoring plan approved by the Competent Authority as well as the period of validity for each monitoring plan; aggregated emissions; the verification opinion statement with reasonable level of assurance; a description of any identified misstatements and non-conformities that were not corrected before the issuance of the verification report; the dates on which site visits were carried out; information on whether any site visits were waived as well as the reasons for waiving these site visits.

The impact will be a consistent content of report. In the beginning, it is likely to result in a slight increase in verification costs, but these will be balanced by greater transparency of the verification exercise. There will also allow more insight at CA level on verification quality.

Having a more uniform and standardised approach towards the finalisation of the verification report could result in situation where prices and verification costs will be more equitable and comparable. Therefore the final result will be positive in terms of facilitating transparency of the process and would guarantee a real added value in terms of monitoring and reporting;

The adoption of Option 2 will result in additional costs for verification (possible ½ day increase) but these costs will be directly proportional to savings for Competent Authorities that will have to spend a considerable lower amount of time checking the verification reports. Therefore Option 2 will be in the order of Categories III (cost neutral) to Category II (limited savings). Option 2 is fully in line with the original requirements set-up by the IA of Directive 2009/29.

Option 1: **This option will maintain the generic requirements stated in the MRG Section 10.4.2 (e) but thus will limit the effectiveness of the system.**

Option 2: **Develop a more detailed list of requirements likely to result in a slight increase in verification costs but these will be balanced by greater transparency of the verification exercise**

Option 2 is retained

4.4. Assessment of cumulative impacts of preferred options

Consistent and comparable level of accreditation and verification: The A&V Regulation will provide a much higher level of certainty regarding the uniformity of implementation at Member State level. A common approach to verification will enhance transparency, clarify requirements and should improve the consistency with which verification is performed across the EU. This in turn will improve the environmental integrity of the System and trust in the verification process itself.

Harmonised internal market for accreditation and verification services: The A&V Regulation will impose direct requirements on relevant individuals (verifiers, verification bodies, Accreditation Bodies, Competent Authorities, etc) without being interpreted at least 27 times and applied differently in at least 27 national legislations. Consistent requirements applied in this way will improve the quality of verifications and ability to determine and correct misstatements (errors, omissions and misrepresentations), thus ensuring better data quality. Data integrity will therefore be improved and maintained in the longer term. As stated by Directive 2009/29, promulgating regulations on verification only once at EU level, that apply directly within Member States is arguably the most efficient way to achieve a harmonised approach to verification since once passed they apply directly to individuals and there is no need to turn the requirements into national legislation and no delays in their application. Provisions foreseen in the two regulations under examination do answer this requirement.

More consistent accreditation will reduce Member States concerns that verifiers in some Member States do not meet the same standards as those accredited by their own accreditation body. This will in turn free up the market and allow for verifiers to operator throughout the EU (subject to language requirements). This also relies on greater harmonisation of verification requirements across Member States, greater communication between Member States and assurance that poor performing verifiers will be dealt with by Member States accreditation agencies.

Improving cost-effectiveness: The development of one set of EU wide rules on accreditation and verification will have significant cost savings for Member States after an initial period of adjustment. For example, many Member States are now looking to update their guidance and

therefore a consistent set of requirements set at a European level will avoid each Member States going through the process again. Cost savings for Competent Authorities may come from the regulation applying directly to the verifier and other parties named. There would be no need to amend national legislation if the regulation is amended since it applies directly. There would also be no delays in achieving improved harmonisation of requirements since they would apply immediately.

Finally we have to state that costs have been considered in isolation. Accumulated cost consideration would not be scientifically sound and would not particularly add value as we are looking to justify selection of a particular option within standalone operational objectives.

With respect to the 8 A&V topics below 5 categories have been developed in relation to perceived effects on necessary man-power and financial cost resources. The categories were validated through selected interviews with representatives from Competent Authorities, Verifiers and ETS Compliance Forum Secretariat.

I. Significant reduction in costs and necessary resources.
II. Some reduction in costs and necessary resources
III. No expected change in costs and necessary resources
IV. Some increase in costs and necessary resources
V. Significant increase in costs and necessary resources

Due to the new approach related to accreditation and verification a "real baseline" cannot be mentioned in most of the options of the following table.

Table 8 - Overview summary

Policy options	**Option 1**	**Option 2**	**Costs/savings**
Accreditation of verifiers	Confirmation limited to Accreditation Bodies	Extended also to national certification bodies*	Category IV
Mutual recognition of verifiers	Mutual recognition not linked to accreditation	Mutual recognition linked to accreditation *	Category II
Peer evaluation of AB	Peer evaluation only by EA	Specific criteria for ETS *	Category III
Supervision of verifiers	CAs only responsible	Effective exchange of information *	Category II – Category I
Risk analysis	Maintain MRG	Develop specific requirements *	Category I
Simplified Procedures and	Simplified verification is	Simplified verification is not	Categories II and I

Requirements	allowed *	allowed	
Single verifier and independent review	Single verifiers (as physical person) no review	Single verifiers (as legal person) and review *	Category II and I
Content verification report	Maintain MRG	More specific requirements *	Categories III and II

* Preferred options

5. CONCLUSION

1. All the proposed measures are in line with the requirements set out in the Directive 2009/29 and foreseen in its Impact Assessment, as well as in the Council Regulation 2008/765 on accreditation and related Impact Assessment. Those pieces of legislation predefine the objectives to be met in the proposed two regulations under scrutiny.
2. All the retained options, strictly linked to the M&R and A&V elements of the EU ETS, are tailored to the capacity of the installations concerned including specific provisions for small emitters, in order to maintain a proper cost-efficiency.
3. The need to enhance transparency, comparability, coherence and continuity, deriving from requirements as set at international level, as well as to introducing an element of simplification and greater user-friendliness of the legal texts has strongly guided the choice of options.
4. As such costs are very difficult to identify separately from the completion of the activity itself. Moreover frequency, which is a variable allowing flexibility, is itself predetermined by the calendar of reporting under the EU ETS. It is mostly to be underlined that the present regulations aim at improving the system without unduly extending the obligations for reporting, keeping them, thus, within a pre-established acceptable framework.