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8. Related party transactions and emissions rights: accounting and direct international taxation[1]

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I. INTRODUCTION

The European Union Emission Trading Scheme (EU-ETS) is distinguished among all the flexible economic instruments developed in the Kyoto Protocol as being the key to fulfilling the objective of reducing greenhouse gas emissions. In contrast, the other two flexible instruments, the Clean Development Mechanism (CDM) and the Joint Implementation (JI), are mechanisms based on projects that involve investing in developing countries and in economies in transition. The rights that are traded in the Scheme are known as EUAs (European Unit Allowances). Credits from the CDM – CERs (Certified Emission Reduction) – and the JI – ERUs (Emission Reduction Unit) – can be transformed into tradable rights in the EU-ETS; although there are certain limitations in terms of the volume of converted credit and the types of company.

This Trading Scheme involves creating a supranational market of emission rights so as to administer the sale and purchase of emission rights, quickly, safely and with economic and legal guarantees. That is why different trading platforms that operate on an international level have been set up. However, the diversity of prices and products that are traded for the companies which are subject to the EU-ETS is exacerbated by the characteristic complexity of an emerging market, and it has, on a few occasions, given rise to subsidiaries being set up within the corporate groups that specialise in trading on the Carbon Market to secure the best positioning possible. In this way both the parent company and other companies in the group have enough emission rights at the most competitive price with a view to handing them over to the Administration in compliance with the obligations established under the Kyoto Protocol.

The conditions and the circumstances in which the aforesaid subsidiaries transfer emission rights bought from the parent company or other

subsidiaries from the group must be analysed, the group and the related parties must be defined, the valuation methods used must be validated, and the accuracy of the documentation provided must be checked to make sure that the operations are entered and valued in line with the true and fair view principle. The integrity of corporate assets must also be guaranteed so as to assess the impact of international taxation, along with the agreements on transfer pricing and the application of secondary adjustments.

Accordingly, we will analyse the problems arising from both national and international intra-group business relations that are faced by companies which are subject to the EU-ETS.

II. ACCOUNTING FOR RIGHTS: CLASSIFICATION, VALUATION AND LIABILITIES RECOGNITION

1. The Accounting Problems Involved in Emission Rights

Various studies have, up to now, analysed the impact of the EU-ETS on the financial statements from an academic point of view (Bebbington and Larrinaga, 2008; Bilbao et al., 2009; Cook, 2009; MacKenzie, 2009; Veith et al., 2009) and also from a professional point of view (PWC and IETA, 2007; Lovell et al., 2010; Deloitte, 2011). They have all pointed out that, unfortunately, under the current International Financing Reporting Standards (IFRS) there is a lot of volatility in the profit and loss accounts due to the asymmetric application of the fair value concept in asset entries (the emission rights) and liabilities (the provision arising from the obligation to surrender). This is because there is no international guide on the correct accounting procedures for emissions rights as the Final Interpretation IFRIC 3 was withdrawn by the IASB (International Accounting Standards Board). Its guidelines - that are still being defended by the IASB - are followed by very few companies (Lovell et al., 2010) due to the asymmetric entry of operations to be carried out in the Balance sheet and the Profit and Loss accounts. Indeed, the subsequent fluctuations in the market value of the rights held (assets) must be recognised as being part of the corporate assets, whilst the fluctuations in value of the obligation associated with holding such rights (namely, the provisions) must be recognised in the Profit and Loss account, regardless of whether the cost or revaluation model is used (both are permitted in the IAS38). (For a more in-depth analysis see Mateos [2009]).

2. Classifying the New Assets

Regardless of the method used to acquire the rights, there are – in principle – two possible classifications for the asset, intangible assets or stock, and both have enough basis to be considered. Obviously the option to classify them as financial assets must be ruled out as they do not comply with the definition given in the IAS32.

According to the definition of Stock in the IAS2, the classification of the rights is defended by the Federal Energy Regulatory Commission (FERC) (USoA, 1993) in the sense that they are key elements in the production process, and therefore must be processed like any other stock. Nevertheless, given the particular characteristics of the rights, they can easily be considered as being intangible assets, as they are non-monetary assets that have no physical substance, which adapts perfectly to the definition given by the IAS38.

3. Initial Valuation

The initial valuation of the rights, regardless of how they are acquired (purchased or assigned free of charge), must be in line with their fair value pursuant to the IAS38, as they are considered to be intangible assets. Fair value is understood as being – if they are traded on a market – the price of the emission rights on the day of the operation (assignment, surrender, purchase, etc.), as this is the price in an active market in which homogenous goods and products are exchanged, where the interested parties are duly informed, there are buyers and sellers at all times and the prices have been displayed publicly and are affordable. Seeing as they are assigned free of charge through the National Allocation Plans, the offsetting entry would be a subsidy that is accounted for pursuant to the IAS20.

4. The Subsequent Valuation

Having entered the emission rights in the Balance sheet, their value might change later on. The two alternative valuation methods provided by the IAS38, and adopted by the IFRIC3, are the acquisition cost method and the revaluation method. According to the former, the aforesaid subsequent valuation concerns the acquisition cost that is adjusted according to amortisation and impairment. According to the latter, this involves processing any possible revaluation of the right on the market, that is, the fair value adjusted to amortisation and impairment is used, in which case the question is where should such variations in value be shown, in the Profit and Loss account or as reserve variations. The

implementation of the IAS38 means that if the book value of an intangible asset increases due to revaluation this increase will be entered in equity. However, the increase will be recognised in the profit or loss in so far as it involves offsetting a decrease according to the devaluation of the aforesaid asset that had formerly been entered in earnings. In contrast, when the book value of an intangible asset drops due to revaluation, this drop will be recognised in the profit or loss. Nevertheless, the decrease will be entered in equity if there is a credit balance in the revaluation surplus for this asset.

5. Liability Recognition

The company that emits CO_2 undoubtedly incurs liability, as it must return the corresponding rights for the tonnes of gas emitted to the State. The questions asked in this case are: When must the aforesaid provision be entered and how should it be calculated? As for the date, the alternative options consider entering it when the right is assigned free of change, or when the company emits CO_2. From a legal point of view, the second option is more appropriate. With regard to calculating or assessing the provision, ideally if the company has emitted less than the amount that they were assigned, the liability is valued on the value of the rights received. The surplus rights – if there are any – can be sold on the market.

The problem arises when the company does not have enough rights to cover the amount of CO_2 emitted over the whole period, as it has to cover any future fund outflows that it might be subject to in compliance with the obligation to surrender rights. We can use the solution provided by the IFRIC3, the solution adopted by other accounting regulations such as the ICAC in Spain, or hybrid solutions whose methodology might be questionable (Deloitte, 2011).

According to the IFRIC3, the provision must be calculated by multiplying all the necessary rights for all the emissions produced by the market price on the day that the provision was entered in the Balance sheet. According to the ICAC, the provision is made up of two parts: in terms of the rights held, the provision is valued using the value of such units in the Balance sheet plus the missing rights that are needed, and the market value on the day that the provision is entered. This solution improves the interpretation of the IFRIC 3 only partly however, because if there is a change in market value only the provisions are affected, not the rights.

III. ACCOUNTING PROCEDURES FOR INTRA-GROUP OPERATIONS

There are two relevant aspects to be taken into consideration when analysing the accounting involved in operations related to the Carbon Market. Firstly the lack of international guidelines on how to enter the operations concerning greenhouse gas emission rights in the accounts, as aforementioned, and secondly, the consequences of adopting the fair value criteria to value the operations carried out among companies that are related in some way or other. The fact that there are no guidelines has given rise to diverse accounting procedures being used which are significant both in terms of taxation (Bilbao and Mateos, 2006; Bilbao et al., 2009) and finance (Cook, 2009; MacKenzie, 2009; Veith et al., 2009).

In the past, accounting standards respected the value that was agreed upon between the related parties, which was considered to be valid in the individual accounts. However, one doctrine that has developed gradually, which is based on the fair view principle and the principle of prevalence of essentials (substance) over form, has questioned the suitability of the agreed price and it is asked whether it would be better to replace it by the fair value or the market value. This supports the provisions established in the Valuation Standard no. 21 of the PGC2007 on operations among companies of the group in the following way:

> The operations among companies of the same group, regardless of the type of relationship between the interested parties from the group, shall be entered into the accounts in accordance with the general standards. Consequently and in general . . . the elements that are involved in the transaction are initially entered into the accounts according to their fair value. Whenever it is appropriate, if the agreed price in an operation is different from its fair value, the difference must be entered in view of the economic reality of the operation. Any subsequent valuation is carried out pursuant to the provisions established in the corresponding regulations.

This new accounting stance involves determining the fair value for accounting purposes rather than the assessed market value, it also analyses the economic reality of the operations and the impact they have on secondary tax adjustments.

Indeed, accounting and taxation have more in common these days, as similar concepts are used, including the market value and fair value. Nevertheless, these values are not coincident because they have different objectives, they are governed by different branches of the legal system, and they are determined by different methodologies. The fair value is more objective; it is based on a financial analysis and it does not

consider the circumstances of the interested parties. There has to be an active market, and, in the absence of this, the comparison of recent and similar operations, discounted cash flow methods or financial option pricing models are used. The market value is more subjective; it has a bilateral approach based on functions, assets and risks. It is more analytical too: the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (IEF, 2010) establish new steps to define it. Notwithstanding, in practice there are not usually any discrepancies, as the companies use the tax model first to establish the market value; they document it and then afterwards they use it as the book value. Moreover, they agree on the main valuation methods – that some call the 'hard core' of the fair value and normal market value (Cordón, 2010): the accounting methods concerning the 'reliable asset market', the 'comparison with recent operations', and the taxation method concerning the 'comparison of similar operations' that consists of the three principles which are established in the Spanish Corporate Tax Law (CTL).

IV. THE RELATED PARTY TRANSACTIONS AND EMISSION RIGHTS IN THE FIELD OF TAXATION

1. Related Party Transactions: the Reform of the Law 35/2006

Having analysed the corporate tax system concerning emission rights (for a more in-depth analysis see Bilbao and Mateos [2006], Bilbao and Rodríguez [2010] and Gorospe [2010]), we now focus on how it affects the transfer pricing, which got its name because 'they allow profit to be transferred from one company to another, for very different purposes, which include reducing the tax burden' (STS 11-2-2000). In Spain, after the creation of the tax until the Law of 1995, a mandatory regulation was enforced on market price valuation, although neither the valuation methods nor the documentation obligations were established, and the bilateral nature of the adjustments was not specified.

The Law 43/1995 on Corporate Tax established a very positive regulation for the taxpayer: the valuation just represented the Administration's power – except for the creation of a specific valuation rule on productivity and economic activities covered in the Law on personal income tax – it was only applied when there was less or deferred taxation on the whole operation; there was no documentation obligation, and if the Administration made an adjustment it was bilateral, without

penalties. This regulation was correct on a national level, and for the majority of the time it was not detrimental to the tax authorities as the adjustment was bilateral. However, it could not be used to predict relocation on an international level, promoting unfairness and transfer pricing to countries with lower taxation. Spanish legislation was inadequate and could not predict this behaviour. Moreover, there was no support to discuss the Spanish tax authorities' valuation with other tax jurisdictions.

The reform of the Law 35/2006, on preventive measures against fiscal fraud and tax evasion, was, according to its explanatory preamble, intended to include 'the same valuation criteria as that established in accounting', and 'adapt Spanish legislation on transfer pricing to the international context, in particular, to the OECD Guidelines and the European Forum on transfer pricing for multinational companies and associates' that were used as interpretative criteria of the Law.

As we have seen, with regard to accounting, the fair value is used in the operations between companies of the group and between related parties. Moreover, on an international level, there is a popular principle of valuing transactions among companies or entities related by the price that economically independent companies would have to agree upon among themselves. To this end, Article 9 of the OECD Model Tax Convention adopts the *arm's length principle*. Moreover, to stop profits being transferred to the country with a lower taxation, it allows each Member State to defend the correct quantification of the tax base of companies residing in the country, and, in turn, it tries to eliminate any economic double taxation due to a review carried out by one of the two States.

However, the taxation of the entities related to associate companies is not in line with the accounting and its imperative nature cannot be compared in the OECD standards.

Amending Art. 16 of CTL involved a radical change of considerable importance in terms of the operations in companies. It brought accounting and taxation closer together, as similar concepts such as fair value and market value were used, and, even if the market is unreliable, the different methodologies used might produce differences between both (Carbajo et al., 2010).

2. Emission Rights Valuation

Art. 16 of CTL establishes five reference values for the associated operations, the first three are given priority, although in no particular order: the comparable market book price that specifies a comparability

analysis; the increased purchase price or production cost; the lower resale price; the distribution of the earnings from the operation; and the net margin method of all the operations together – the latter is added pursuant to the OECD Guidelines. The 2010 Transfer Pricing OECD Guidelines do not establish any type of precedence (the last two are no longer called 'last resort methods'), although the first three methods are more reliable as they are based on a comparison with the operations carried out between independent individuals. What is more, the Spanish regulation is much shorter and more prescriptive than Article 9 of the OECD Model Tax Convention that allows for alternative choices.

Under the CTL the taxpayer is obliged to value the market value of the emission rights in their Balance sheet. The tax regulations concerning the related party transaction tend to vary from those of accounting, so once again adjustments are inappropriate.

If the accounting valuation coincides with the market value, the regulations on related party transaction are not applied; although they are applied in the specific cases established in the Law. In another case the existence of an official price would have to be determined. The following cases can be distinguished by considering their book value:

- The market value is used when the rights are assigned, so adjustments do not have to be made.
- When the production cost is generated, adjustments might have to be made, as the purchasing price of the raw materials and other consumable materials and the price of the taxable production factors might differ from the one that is used on the market between independent parties.
- If they are acquired by means of adjudication, the price is verifiable and the Administration doesn't have to get involved.
- When emitting companies purchase or sell the rights on a regular basis the purchase price or the production cost of the intangible assets or commodities is adopted, which means the market value could be applied by the Administration – if the taxpayer hasn't already done so – unless they are acquired in organised markets. In contrast, acquisition for speculation means that the rights are entered in the accounts as financial instruments due to their fair value, so there are no adjustments, if the same methodology is applied.

To value the emission rights, the comparable uncontrolled price according to trading markets must be consulted. According to the OECD

Guidelines, it is more direct and reliable. Under the Decision of the Central Economic Administrative Court (known by its Spanish initials TEAC) the geographic market itself, the same or similar commodities, the equivalent volume, the identical range of operations and the same period of time have to be considered.

3. The Different Accounting and Taxation Regulations on Related Parties

Although accounting and taxation regulations do coincide with regard to the valuations, they differ in terms of who they apply to, as the companies of the group are only one of the existing types of related parties established under the CTL.

Art. 16.3 of CTL, with regard to taxation on the entity-partner, requires a general 5 per cent qualifying holding, or 1 per cent for companies whose securities are quoted on regulated markets; percentages lower than 20 per cent are greatly influenced by accounting. Unlike the accounting criteria, it does not include anyone with a similar personal relationship, as that of the spouse, although it does include uncles and nephews. But the accounting percentage is much higher. Accordingly, an operation between an entity and a partner that has 15 per cent of the shares would be associated for taxation purposes but not accounting purposes. In contrast, if the percentage is 20 per cent, and it is carried out with the unmarried couple, it would be related for accounting but not taxation purposes. All in all, the subjective scope of Art. 16 of CTL is significantly wider than that of accounting.

4. The Consequences of Accounting Differences on Tax

The lack of international accounting guidelines for emission rights and the fact that taxation is not mentioned in the Law 1/2005 has created different tax planning opportunities in companies that are subject to the aforesaid Law (Bilbao and Mateos, 2006; Bilbao et al., 2009; Gorospe, 2010) that could arise through cross-border intra-group operations. If these transfers are carried out between related entities in deregulated markets they must be valued at similar or identical prices as those transferred on regulated markets, or documents must be presented to justify the different value. This type of risk would be minimised if there were third party comparable prices; or failing this, if the financial derivatives market was used as, for example, future options, forward contracts and structured contracts concerning emission rights that can also help us to obtain third party comparable prices.

V. ASSESSING THE TAX REGULATIONS ON RELATED PARTY TRANSACTIONS: SECONDARY ADJUSTMENT PROBLEMS

1. The Related Party Cases are Compulsory

According to the Transfer Pricing OECD Guidelines (paragraph 1.2), the tax authorities should not automatically think that associated companies intend to manipulate their profits, because it is difficult to specify the exact market price in view of the lack of market forces or in view of the adoption of a particular business strategy. In contrast, under the Spanish legislation every operation carried out by individuals or entities that are covered in any of the provisions established in Art. 16 of CTL are classified as being associated, and, hence, they might be subject to the rules of valuation established for this type of operation, regardless of whether the price or value of the operation is real or fictitious.

Related parties that are associated under the CTL and that are not mentioned in Article 9 of the OECD Model Tax Convention, include: an entity-partner or a natural person acting as administrator but not as a sole proprietor, or the ascendants, descendents, or the spouse (Carmona et al., 2011). Basically this is because the internal rules apply the association whenever there is a 5 per cent share or even 1 per cent for quoted securities, apart from the fact that the subjective scope is substantially wider. The percentage is much lower than that used in the rest of Europe in general, which is 25 per cent, so it is a long way off from really being able to control transfer pricing. The cases of association have been considerably elaborated on. Accordingly, it includes the entity-partner or a natural person acting as administrator, but not as a sole proprietor, and it covers their relatives too. Furthermore, a related party transaction is also understood as being the relations between an entity and the permanent establishment. Art. 16.3 of the CTL is not in line with the subjective scope of association established by the accounting regulations and the market value valuation criteria, although they do tend to be similar. As accounting and tax regulations differ in certain cases, the corresponding adjustments must be made in obligatory taxation.

As for documentation obligations, statutory regulations are extensive; they require complex documentation and exacerbate the cost allocation in the case of shared services. Art. 14 of the Royal Decree-Law 6/2010 amended Art. 16 of the CTL for the assessable periods ending on the 19th of February 2009; although even in this new 'simplified' system, the method chosen must be identified, the margin of values must be mentioned, and the comparability analysis must be excluded only for

occasional operations or in those where the risk is minimal. This system is so stringent that it could destroy the competitiveness of Spanish companies, especially when it is compared to the systems used in neighbouring countries. It also undermines the country's ability to attract foreign investment. Indeed it could be considered as being an excessively high burden for many foreign SMEs and microenterprises (Carbajo et al., 2010).

2. The Penalty System

The penalty system is very strict and lacks authenticity, as it is a vague concept of the market value. Under domestic law, on top of the 15 per cent penalty on the valuation differences, those penalties arising from failing to comply with the documentation obligations are added (even if it is not economically detrimental to the tax authorities, failure to comply with these obligations is penalised; however, if these obligations are upheld, but at a disadvantage, the valuation difference is not penalised). The legal regulation establishes 1500 euros per inaccurate or incomplete piece of information. However, the Law does not specify in what cases and circumstances the required documentation is incomplete or inaccurate, which could imply that the regulation is wrong.

In terms of international operations, one sanction consists of the loss of the mutual agreement within the scope of the Convention 90/436/EEC. If the positive adjustment is accompanied by a heavy fine, it prevents the bilateral adjustment and generates a double penalty (the double taxation arising from the unilateral adjustment and the duly processed tax penalty). In this respect the Court Judgement of the 16th of December 1992 Commission/Greece (C-210/91) pointed out that the penalty and control measures should not involve disproportionate penalties, which are considered to be those that hinder the rights recognised under the Treaty.

According to Calderón and Martín (2009), the primary adjustment properly allocates earnings among the subjects according to their market value; the secondary adjustment classifies the excess on the market price perceived by one of the related parties for tax purposes.

3. The Secondary Adjustment

The secondary adjustment – re-characterisation of transaction – should only be used to stop tax evasion when attempts have been made to hide a secondary operation. For example, dividend distribution (as in Germany, generating the obligation to withhold), capital contributions, loans or tax base variations.

The OECD Guidelines are in favour of limiting the scope of the secondary adjustments applied. Some countries do not even apply them, such as Ireland, the United Kingdom and Portugal. In any case, there is conflicting evidence: in Holland, for example, the adjustment is eliminated if the taxpayer proves that the withholding of the hidden dividend cannot be authorised in the other country, and that it was not withheld to avoid having to pay.

The lack of agreement on secondary adjustments on an international level is worrying, especially considering the fact that the documents from the OECD do not mention tax authority prohibitions or obligations in relation to carrying out these adjustments, which means they depend entirely on the domestic legislation.

The big multinational companies that are subject to the Emission Trading Scheme can justify setting up subsidiaries that trade rights for all the companies of the group in one country or another, or divert the flow of income to wherever there are more advantages resulting from the different taxation procedures (in terms of secondary adjustment and subsequent penalties).

In terms of the secondary adjustment, Spanish regulations provide for its automatic application, classifying it as a share in profits or equity contributions – depending on whether the difference is in favour of the shareholders or the entity – the base increase arising from the primary adjustment, whilst the Guidelines suggest that it should be applied sensibly and not automatically. Moreover, the regulatory development of the law lacks legislative competence, and the General Fiscal Law establishes mechanisms to prevent the taxpayers from acting unfairly or evasively. This rule creates unnecessary conflict.

4. Problems of the Spanish Regulation

The core question is that the transnational operations are the main objective of the transfer pricing system, although this has been elaborated on to include all types of operations, all types of companies, regardless of the cost (in France documentation is only required from the big companies). The CJEU Judgment of the Court (Third Chamber) of the 21st of January 2010 in *Societè de Gestion Industrielle (SGI) v. Belgian State* acknowledges that it is exclusively applied on an international level so as to ensure that tax-raising power is distributed equally among Member States that might be affected if the tax base increases in one of the Member States and decreases in another. The Judgment concludes that the regulation is appropriate as 'it is based on an analysis of objective and verifiable elements', 'the taxpayer can submit, without being subject to excessive administrative

restrictions, elements concerning the possible commercial reasons why such a transaction was carried out', and why the transfer pricing 'must be limited to the fraction that does not exceed what would have been agreed if there wasn't an interdependent relationship between aforesaid companies' (para. 71ff). Spanish regulations are applied automatically, the formal obligations are excessive, and a secondary adjustment is established that creates non-existent legal transactions and involves genuine legal fiction, contrary to the principle of proportionality.

5. Issues in Cross-border Intra-group Operations and Solutions

The international transactions with emission rights might lead to double taxation as a result of the simultaneous unlimited application of the internal taxation standard of the Contracting States. In order to avoid or reduce this, the OECD Model Tax Convention allows for the earnings obtained through the assignment of emission rights to be classified as business profits (art. 7) or capital gains (art. 13). In both cases this will be the competence of the corresponding State tax authorities wherever the entity, person or permanent establishment that earns the income has their residence.

Moreover, the different tax systems of the States with regard to emission rights in the intra-group operations might produce lack of and excess taxation. To prevent this, the OECD Guidelines concerning price transfer to multinational companies and tax authorities must be applied on the corresponding adjustment and the mutual agreement procedure (arts 9 and 25). The Guidelines of 2010 (IEF, 2010) establish criteria to make sure that the prescription does not hinder the aforesaid correlative adjustment (C.4.1).

To overcome the complexity involved in implementing 27 different tax systems in the EU, the Directive proposal on a Common Consolidated Corporate Tax Base (CCCTB) was presented. However, as it does not contain rules on emission rights, its application is optional, and it only concerns the EU Member States – and even then, not all of them, if it is approved by means of the enhanced cooperation procedure – the effectiveness of this in the existing regulation is very limited (Copenhagen Economics, 2010).

VI. CONCLUSIONS

The lack of guidelines on international accounting for emission rights for companies emitting greenhouse gases has resulted in a huge diversity of individual solutions that question harmonisation and the international

comparability of financial accounting information. In turn, this has given rise to tax planning opportunities and has generated tax distortions, in particular in the area of the related party transaction and the use of transfer pricing.

The transactions with EUAs and CERs can determine transfer pricing. The related party transaction system is applied when they are carried out outside organised markets and do not include free assignments or adjudication; for example, if an OTC (over the counter) market is used or they are carried out through traders that sell the rights under their own conditions.

This implies that taxation is inadequate, as the design of the Spanish related party transaction system infringes upon the community legislation, and therefore violates the principle of proportionality, with its imperative enforcement, not to mention the fact that it exceeds the subjective scope of Article 9 of the OECD Model Tax Convention. There is no sense in it affecting internal operations either, as the damage done by the *arm's length* principle is on an international level. The secondary adjustment involves a questionable double tax burden, namely, a type of hidden penalty which should not be applied automatically. Moreover the penalties imposed are excessively high, and should be reduced – as should documentation obligations for small and medium sized enterprises. In short, it would be better to return to the former internal operations system, and modify the existing one so that it could be used on an international level.

In cross-border operations with emission rights, the corresponding adjustment and the mutual agreement procedure must be implemented effectively. The CCCTB does not solve this due to its limited scope.

NOTE

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