

VOLUNTARY AGREEMENTS BY SWISS INDUSTRY, TRADE AND SERVICES

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References:

CO₂ Law, Strategy of Swiss Energy, Guidelines, Appendix to the Guidelines

1. Main Elements of the Swiss National Programme „Swiss Energy“

The programme Swiss Energy is the main instrument of climate- and energy policies in Switzerland.

This programme is initiated and run by the federal authorities but also highlights the principle of subsidiarity with local authorities, co-operates with the private sector and environmental organisations and involves the public as well. The Swiss Energy action programme was adopted by the Federal Council in January 2001.

Swiss Energy takes into consideration the many different aspects of Swiss circumstances: the strong dependency on fossil fuels, the coming deregulation of the electricity market with a view to the particularities of Swiss hydropower, the question of phasing out nuclear power generation and also the effort to abate greenhouse gas emissions in the spirit of Kyoto protocol.

The programme Swiss Energy relies on the experience drawn from the preceding programme Energy 2000 which started in 1990. The results of the programme Energy 2000 show that some of the targets set have been achieved: we have accomplished a reduction in energy consumption of 6%, achieved a political impact on the level of national and regional legislation and promoted sustainable energies. Consumption of fossil fuels has constantly increased since 1990 up to date. Additionally, we have to admit that effects on voluntary measures are minor.

Whereas the amount of fossil fuels used is alarming, energy projections forecast that there can't be made a reduction but at least a stabilisation on the present level without additional effort. One of our major field of action has to be the transport sector.

On these experiences found the Energy Law with its corresponding decrees and especially the new CO₂ Law, which came into force on 1 May 2001, and – as an

instrument for the implementation - the new programme Swiss Energy, the objectives of which can be summarised as follows:

- efficient use of energy
- 10 % reduction of overall CO₂ emissions by the year 2010 compared to 1990.
- Preservation and renovation of hydropower
- promotion of sustainable energies
- increase of voluntary measures and of market oriented policy instruments, such as incentive taxes, emissions trading

In order to support the implementation of the CO₂ Law the Swiss Federal Office of Energy and the activities of Swiss Energy have been reorganised into the sectors “public authorities” and “buildings”, industry/business community”, “mobility” and “sustainable energies”.

This structure highlights the main points the Swiss Energy programme focuses on:

1. definition of standards as well as implementation of trade declaration and regulations for domestic and electrical devices and vehicles (according to European Union)
2. enlargement of competencies of cantons especially in the sector building
3. further promotion of sustainable energies
4. co-operation with private agencies such as the Energy Agency for Business
5. voluntary measures based on voluntary agreements transformed into formal commitments in case a CO₂ tax needs to be introduced.

The following comments are focused on the activities in the business community / industry sector:

2. Swiss Law on energy and CO₂ Law

The Energy Law aims at a sustainable energy supply that is a diminution of the CO₂ emission. The primary activities focus on all kind of voluntary measures taken by industries and households. Regulations for domestic and electric devices produced in series, vehicles, installations and buildings can be adopted as a subsidiary measure to voluntary action.

Business organisations such as energy agencies can be entrusted with certain implementation tasks.

The CO₂ law aims at responding to climate change. Central points of the CO₂ Law:

- Quantified reduction targets for CO₂-emissions due to the use of fossil fuels
- Voluntary by business organisations and companies have priority over state intervention and supplement other policy measures such as the Swiss Energy programme, distance and weight dependent tax for heavy vehicles
- Subsidiary CO₂ tax on fossil fuels

- Option for exemption from CO₂ tax by means of a legally binding formal commitment to reduce CO₂ emissions

The CO₂ law fixes an overall CO₂ emissions reduction target of 10% by the year 2010 compared to 1990 levels, whereof emissions from combustible fuels must be cut down by 15% and from petrol/diesel by 8%.

Only if the reduction targets seem unlikely to be met, an incentive tax on fossil fuels will be levied in the second phase from 2004 onwards. The rate will be set by the federal council, but has to be approved by the parliament and can't exceed CHF 210.- per ton of CO₂. Revenues will be fully reimbursed to the population on a per capita basis and to the economy, proportional to wages paid. Big emitters, associated groups of emitters and energy-intense companies can apply for a exemption from the tax but have to enter a legally binding CO₂ reduction commitment in return.

3. Implementation of Voluntary Agreements according to the Guidelines on Voluntary Measures to reduce Energy Consumption and CO₂ Emissions for the sectors Industry, Trade and Services and Models to define targets for Groups of companies

Guidelines were established in order to determine general criterias for agreement procedures and impacts of measures taken. In case a CO₂ tax needs to be levied these guidelines are to be succeeded by more binding ordinances (earliest in 2004). The conversion of voluntary agreements into a formal commitments is optional. Before requirements for formal commitments are definitely outlined in a ordinance, companies striving for tax exemption receive a conditional approbation by the federal offices in charge.

The Swiss government developed the guidelines on voluntary measures in close consultation with the business community concerned and conceded that absolute CO₂ emission caps may not be an hindrance to output growth:

Guidelines are divided into “**voluntary agreements**” (part 1) and “**formal commitments**” (part 2)

If output growth diverges significantly from growth prediction, appropriate target adjustments will be made. Domestic emission allowances that will probably not be used for compliance are tradable. Emission reductions achieved in other countries may be taken into account.

Individual companies can join either an association or a group of companies in order to define a common CO₂ emissions reduction target. These groups benefit from combined emission targets. In case of non-compliance at the association level the group level is relevant for compliance, if an association is made up by several groups of companies. In case of non-compliance of a group the exemption is cancelled and the CO₂ tax is payable for every tonne of CO₂ emitted since the introduction of the tax. The members of the group will be subject to joint liability.

Part 1 of the guidelines is intended for all those interested in taking voluntary measures. It declares standards relating to energy consumption and CO₂ emission in order to use

energy more efficiently and to reduce/avoid CO₂ emission. Energy efficiency is one of the target values of an agreement.

Part 2 describes the requirements to reduce CO₂ emission in case of tax exemption to for a formal commitment. Target values are CO₂ -emission targets and CO₂-intensity.

Whereas agreements are open to anyone, formal commitments are linked to a minimum CO₂ emissions requirement. Large companies and associations who make a formal commitment to the federal government must have total emissions of at least 250'000 tonnes of CO₂ per year, groups of companies within an association must emit a combined total of at least 10'000 tonnes.

Several key elements exist to work out agreements on targets:

- Two distinct models to determine targets for different groups of entrepreneurs: big companies (Swiss Energy model) and small and medium companies (benchmark-model)
- The “Energy Agency for Business was entrusted with a contract for the provision of services
- Monitoring– and reporting system

Whereas the Swiss Energy Model focuses on planned measures and measures already taken in the past, the Benchmark Model basis on energy consumption relative to output.

Detailed description of the two models to determine targets for different groups of entrepreneurs, the definition of target values, the calculation of target values as well as the annual impacts of the measures taken are to be found in the appendix (only available in French or German).

Despite the progress in Swiss climate policy over the last few years, more effort is to be taken in order to reduce the emissions of CO₂. The co-operation between federal offices and business organisation has to be intensified. More experience needs to be gained from the relatively new policy instrument of voluntary agreement, models have to be tested and further developed, especially the benchmark model.

At this time, the federal office of energy is working on a concept to simplify the agreement procedure. This process coincides with the inclination of the business community to gain some flexibility.

Federal Law on the reduction of CO₂ emissions (CO₂ Law)

of 8 October 1999, in force since 1 May 2000

The Federal Assembly of the Swiss Confederation

in pursuance of Articles 74 and 89 of the Constitution,
having considered the Opinion of the Federal Council of 17 March 1997¹,

ordains:

Section 1: General provisions

Art. 1 Purpose

This law is designed to reduce CO₂ emissions attributable to the use of fossil fuels for energy generation (combustible fuels and motor fuels). In consequence, it should also contribute towards a decline in other harmful effects on the environment, to the economical and efficient use of energy, and to the increased use of renewable energy sources.

Art. 2 Reduction targets

¹The CO₂ emissions arising from the use of fossil fuels for energy generation are to be reduced by 10% overall by the year 2010 compared to the 1990 level. Compliance with this target will be determined by the average emissions from 2008 to 2012.

²Emissions arising from the use of combustible fuels shall be reduced by 15% overall and emissions from motor fuels (not including aviation fuel for international flights) by 8% overall.

³The Federal Council is committed to limiting emissions from aviation fuel used for international flights, and will regulate them through international agreements.

⁴Total emissions are to be calculated based on the quantity of fossil fuels brought into circulation for energy generation in Switzerland.

⁵The Federal Council, in consultation with the affected groups, may specify targets for individual sectors of the economy.

⁶The Federal Council shall, in good time, and after listening to parties concerned, submit proposals to the Federal Assembly, for reduction targets relating to the period after 2010.

⁷When calculating emissions for the purposes of this law, the Federal Council may take appropriate account of reductions in emissions achieved in other countries but financed by Switzerland, or by companies domiciled in Switzerland. In this context, the Federal Council shall regulate the requirements and take internationally recognised criteria into account.

Art. 3 Means

¹The reduction targets are to be achieved in the first instance through policy on energy, transport, the environment and finance, and by means of voluntary measures.

²If the reduction targets cannot be achieved through these measures alone, the Federal Government shall levy an incentive tax on fossil fuels (CO₂ tax).

³Certain consumers of combustible fuels and motor fuels may be granted exemption from the CO₂ tax if they make a formal commitment to the federal government on limiting their CO₂ emissions (Art. 9).

Art. 4 Voluntary measures

¹Voluntary measures specifically include declarations whereby consumers of combustible fuels and motor fuels make a commitment to limit their emissions.

²The Federal Council may entrust appropriate organisations with the task of supporting and implementing voluntary measures.

¹ BBI 1997 III 410

Art. 5

Evaluation

¹The Federal Council shall regularly evaluate the effects of implemented and planned measures designed to reduce CO₂ emissions and shall, in particular, take into account any changes in the principal structural conditions, including the growth of the population, the economy and traffic.

²In this process of evaluation, the Federal Council shall rely on statistical surveys.

Section 2: CO₂ tax

Art. 6

Introduction of the tax

¹If it appears that the reduction targets will not be achievable by the measures described in Article 3, Paragraph 1 alone, the Federal Council shall introduce the CO₂ tax.

²The Federal Council shall consider, in particular:

- a. the effects of further energy taxes;
- b. measures taken by other countries;
- c. the prices of combustible fuels and motor fuels in neighbouring countries;
- d. the competitiveness of the economy and individual sectors within it.

³The Federal Council may not introduce the tax before the year 2004.

⁴The Federal Council may introduce the tax in stages. It shall specify the timetable for the individual stages in advance.

Art. 7

Object and rate of tax

¹The manufacture, mining and import of coal, of combustible fuels and of motor fuels as defined by Article 2 of the Mineral Oil Tax Law of 21 June 1996², where these are brought into circulation for the generation of energy, are subject to the CO₂ tax.

²The maximum rate of tax shall be 210 Swiss francs per tonne of CO₂.

² SR 641.61

³The Federal Council may specify differing tax rates for combustible fuels and motor fuels depending on the achievement of the reduction targets. The Federal Council may also levy the CO₂ tax on combustible fuels only or on motor fuels only.

⁴The rates of tax are subject to approval by the Federal Assembly.

Art. 8 Tax liability

The following shall be liable to pay the tax:

- a. tax on coal: persons liable under the Customs Law³ for making payment on imports, also domestic manufacturers and producers.
- b. tax on other fossil fuels: parties liable to pay the mineral oil tax in accordance with the Mineral Oil Tax Law of 21 June 1996⁴.

Art. 9 Tax exemption

¹Consumers of large quantities of combustible fuels and motor fuels, and companies whose international competitiveness would be adversely affected by the introduction of the CO₂ tax may be granted exemption from the tax if they make a formal commitment to the Federal Government on limiting their CO₂ emissions.

²The following may make a formal commitment to limit their CO₂ emissions:

- a. large companies;
- b. groups of consumers of combustible fuels and motor fuels;
- c. energy-intensive companies if their CO₂ tax liability exceeds 1% of the value of their gross production.

³The formal commitment shall include at least:

- a. a limitation on CO₂ emissions by the year 2010;
- b. an action plan;
- c. a monitoring system to verify the effectiveness of measures;
- d. regular reporting.

³ SR 631.0

⁴ SR 641.61

⁴The extent to which emissions must be limited in a formal commitment shall be based on:

- a. the targets described in Article 2;
- b. reduction measures already implemented;
- c. the costs of reduction measures;
- d. the exposure of the companies concerned to international competition;
- e. the expected growth rate of production.

⁵If the preconditions for tax exemption are satisfied, the tax shall be refunded. The Federal Council may decide not to make a refund if this would cause disproportionate expense.

⁶ In cases of non-compliance with a formal commitment made to the government, the taxes from which exemption had been granted shall be paid, with interest. This duty to pay shall expire five years after determination of tax liability. In addition, the tax authorities may at any time demand a compliance reserve (guarantee).

Art. 10 Use of the tax revenue

¹The tax revenue refers to all the income accruing from the CO₂ tax, including interest, less a deduction for all administrative costs.

²The tax revenue shall be redistributed to the general population and the business community in proportion to their original payments.

³The proportion returned to the general population shall be distributed uniformly to all natural persons. The Federal Council shall regulate the distribution procedure. It may commission the cantons, public corporations or private individuals to carry out the distribution in return for appropriate remuneration.

⁴The proportion returned to the business community shall be distributed to employers via the compensation funds of the Federal Old Age and Survivors' Insurance Fund (Art. 5 of the Law on the Federal Old Age and Survivors Insurance Fund⁵) in proportion to the salaries paid to employees. These compensation funds shall be reimbursed accordingly.

⁵ SR 831.10

⁵ Those exempted from the CO₂ tax under Article 9 are not entitled to redistribution under Paragraph 4.

Art. 11 Procedure

¹The Federal Council shall regulate the procedure for collecting and refunding the tax on coal. In the case of imports or exports, the relevant customs legislation procedures shall apply.

²The procedural provisions of mineral oil tax legislation shall apply for the collection and refunding of the tax on other fossil fuels.

³The Federal Council may commission appropriate organisations to take on tasks relating to the tax exemption procedure.

⁴The appeal procedure is based on Article 34ff. of the Mineral Oil Tax Law of 21 June 1996⁶.

Section 3: Penalties and final provisions

Art. 12 Tax evasion

¹Anyone who deliberately attempts to obtain an unlawful tax benefit for himself / herself or for another, i.e. by evading the CO₂ tax, including an unlawful tax exemption, refund or redistribution, shall be liable to a fine of up to three times the amount of the unlawful benefit.

²Any such attempt or being an accessory to any such attempt shall be punishable by law.

³Anyone who obtains for himself / herself or for another an unlawful tax benefit through negligent conduct shall be liable to a fine of up to the amount of the unlawful benefit.

Art. 13 Tax jeopardy

¹Unless the penalty is a higher fine under another provision, a fine of up to 100,000 Swiss francs may be imposed on anyone who commits the following offences:

- a. in contravention of the law, fails to register as a person liable to pay the tax;
- b. fails to keep, prepare, file or present accounts, receipts, business documents and other records in the proper manner, or fails to comply with his / her duty to provide information;
- c. in an application for a tax exemption, refund, or redistribution, or in his / her capacity as a legal entity compelled to provide information, makes untrue statements, conceals important facts, presents false documentary evidence about such facts; or
- d. fails to declare data or objects relevant for levying the tax, or declares them incorrectly.

²In serious cases, or in the event of a subsequent offence, a fine of up to 30,000 Swiss francs or, if a higher sum results, an amount up to the value of the jeopardized tax may be imposed.

Art. 14 Relationship with the Federal Law relating to Administrative Penal Law

¹Breaches shall be prosecuted and judged in accordance with the Federal Law relating to Administrative Penal Law⁷.

²The Swiss Customs Administration is the prosecuting and judging authority.

³If an act is at the same time a breach under Paragraph 1 and a breach of Customs Law, or of other federal tax legislation that is liable for prosecution by the Customs Administration, the penalty for the more serious offence shall be applied; this may be increased appropriately.

Art. 15 Implementation

¹The Federal Council shall implement the present law and issue the administrative regulations. Before these administrative regulations are issued, the Federal Council shall consult the cantons and parties concerned.

²For certain tasks, the Federal Council may call on the services of the cantons and private organisations.

⁶ SR 641.61

⁷ SR 313.0

³Where required for the purposes of general defence, the Federal Council shall regulate on derogations from the provisions of this law through the instrument of ordinances.

Art. 16 Transitional provision

All fossil fuels shall be taxed that are subject to the tax on mineral oil or to customs duties when the CO₂ tax enters into force.

Art. 17 Referendum and entry into force

¹This Law shall be subject to optional referendum.

²The Federal Council shall set the date of entry into force.



Bundesamt für Umwelt, Wald und Landschaft
Office fédéral de l'environnement, des forêts et du paysage
Swiss Agency for the Environment, Forests and Landscape

Bundesamt für Energie
Office fédéral de l'énergie
Swiss Federal Office of Energy



Guidelines on voluntary measures to reduce energy consumption and CO₂ emissions

(industry, trade, services)

Part I: Agreements

Part II: Formal commitments

Berne, 2 July 2001

Introduction

Overview

1. The Energy Law, which came into force on 1 January 1999, puts a strong emphasis on voluntary measures by industry. The strategy of the “Swiss Energy” action programme, which was adopted by the Federal Council on 17 January 2001, outlines the current situation, objectives and principle measures of Swiss energy policy for the coming decade. An important feature is that, by the year 2010, the consumption of fossil fuels is to be reduced by 10% as compared with consumption in 2000, and electricity consumption in 2010 is to be limited to a 5% increase compared with 2000. These objectives are to be achieved, in the first instance, by means of voluntary measures.
2. The CO₂ Law, which came into force on 1 May 2000, aims to achieve a 10% overall reduction in CO₂ emissions by 2010 compared with 1990. This Law sets specific targets for combustible fuels (15% reduction), and for motor fuels (8% reduction). The targets are to be met, in the first instance, by means of voluntary measures. If it appears that these measures will not suffice, the Federal Council will introduce a CO₂ tax, at the earliest in 2004. The rate of tax, which will depend on the gap in relation to the targets, has to be approved by parliament. Voluntary measures may make a considerable contribution to reaching the targets. Whether the CO₂ tax proves to be necessary, and its rate, will depend on the effects of voluntary measures, and of other measures related to CO₂ (Energy Law, “Swiss Energy” action programme, Heavy Vehicle Fee (HVF) etc.).
3. If the CO₂ tax has to be introduced, large companies, groups comprising several consumers, and energy-intensive companies may be exempted from the tax if they make a formal commitment to limit their CO₂ emissions.
4. Based on the CO₂ Law with two phases (voluntary phase and taxation phase) voluntary measures may be implemented in two ways:
 - (1) Avoidance strategy
The reduction targets stipulated by law are to be achieved without the introduction of a CO₂ tax. An important part will be played by voluntary reductions on the part of business and private individuals, through agreements.
 - (2) Exemption strategy
Formal commitments, which entitle a party to be exempted from the tax if the party is in compliance with the emission limitation targets, will have to meet stricter requirements (Art. 9 of the CO₂ Law) than for agreements. Agreements that meet these requirements may be converted into formal commitments.
5. The guidelines are made up of two parts:
 - Part I: agreements
Requirements related to the limitation of energy consumption, according to Art. 17, Para 1, let. e and g of the Energy Law, and of CO₂ emissions, according to Art. 3 and 4 of the CO₂ Law.

- Part II: formal commitments
Requirements that must be met by a formal commitment to limit CO₂ emissions with a view to requesting exemption from the tax, according to Art. 9 of the CO₂ Law.
6. Those for whom the present guidelines are intended are free to use part I and / or part II.

Legal value of guidelines

7. Guidelines provide assistance in the interpretation of a legal norm. They go further than non-binding recommendations, but do not have the binding character of ordinances. In general, they reflect the point of view of the Department and of the federal offices concerned.
8. It is not excluded in principle, that in justified cases, there may be deviations from guidelines. However, any such deviations have to be linked to proof that they respect the legislative provisions on which the guidelines are based.
9. Contrary to part II, part I of the present guidelines will not be replaced by an ordinance. Therefore, the provisions of part I may easily be adapted to new circumstances.

Definitions

10. The terms used in the present guidelines are to be understood as follows:

Agreement

11. A written declaration on energy saving and on the efficient use of energy, in the context of Art. 17, Para. 1, let. g of the Energy Law. This declaration may contain voluntary measures, with a view to limiting CO₂ emissions according to Art. 3 and 4 of the CO₂ Law.

Formal commitment

12. According to Art. 9 of the CO₂ Law, large companies, groups of consumers, and energy-intensive companies are exempted from the CO₂ tax, if they make a formal commitment to the federal government on limiting their CO₂ emissions. The formal commitment may be in the form of a contract or a decision submitted for approval. The formal commitment may have been, in the past, an agreement.

Association

13. A group of several companies, or of several groups of companies, making up a group of consumers. The association makes a formal commitment to reach a common reduction target. The association is responsible for organising its members and for ensuring that the formal commitment is respected.

Group of companies

14. A group of companies making up an association or a clearly distinct part of an association.

CO₂ emission target

15. This limitation target puts a cap on the maximum CO₂ emissions in tonnes of CO₂, which may not be exceeded by the year 2010.

CO₂ intensity target

16. The ratio of CO₂ emissions to a reference value used for this purpose (e.g. quantity actually emitted as a ratio of hypothetical emissions in the absence of measures, output in tonnes, area heated in m², etc.). This value serves as an indicator to measure the implementation and effectiveness of measures taken.

Energy efficiency

17. The ratio of the total energy consumption to a reference value used for this purpose (e.g. total energy consumption as a ratio of the hypothetical consumption of energy in the absence of measures, output in tonnes, turn-over, area heated in m², distance driven in km). This parameter serves as an indicator to measure the implementation and effectiveness of measures taken.

Analysis of effectiveness

18. An analysis of the effectiveness of measures taken, based on the agreement on targets or on the formal commitment, as compared with the status quo.

Emissions allowances

19. Holders of allowances are entitled to emit a certain quantity of CO₂. Allowances are allocated according to the CO₂ cap fixed in a formal commitment for the period 2008 to 2012¹. During this period, the quantity of CO₂ actually emitted must be invalidated each year.

Certificate

20. Certificates are negotiable emissions permits².

¹ Allowances are part of the Assigned -Amount, which Switzerland has through the Kyoto Protocol.

² Certificates resulting from projects carried out in other industrialised countries are known as ERUs (Emission Reduction Units); certificates resulting from projects carried out in developing countries are known as CERs (Certified Emission Reductions).

Part I: Agreements

Legal basis

21. The legal basis is found mainly in the Energy Law of 26 June 1998, and in the Energy Ordinance of 7 December 1998.

- The Energy Law gives priority to voluntary measures by industry, according to Art. 2 Para. 3, before any regulations are passed.
- According to Art. 17, Para. 1, let. e and g, the Federal Council may entrust business organisations with “ carrying out programmes to promote energy saving and the efficient use of energy, and the use of indigenous and renewable forms of energy” , and also with “ setting targets for future energy consumption by large-scale consumers” .
- According to the Energy Law, Art 16, Para. 2 and 3, private organisations may be called upon to assist in implementation; tasks of verification, controlling and supervision may be entrusted to third parties.
- According to the Energy Law, Art. 18, the Department may grant contracts to appropriate organisations for the provision of services.
- The conditions for financing and on contracts for the provision of services are established in The Energy Law Art. 23, 24 and 25.

22. Part I of the guidelines also offers assistance in the interpretation of Art. 3 and 4 of the CO₂ Law of 8 October 1999.

- Voluntary measures in the spirit of Art. 3 and 4 of the CO₂ Law are to make a major contribution to reaching the reduction targets according to Art. 2 of the CO₂ Law (Art. 4 Para 1: “ [] declarations whereby consumers [..] make a formal commitment [..]”).
- The Federal Council may entrust appropriate organisations with the implementation of voluntary measures (Art. 4, Para. 2).

Those for whom these guidelines are intended

23. Part I of these guidelines is intended for all those interested in taking voluntary measures to use energy more efficiently and to reduce their CO₂ emissions.

Structural changes in the composition of the company or of the association

24. The agreement on targets has to be adjusted each time a company joins or leaves the association.

Target value

25. In an agreement, the target value is energy efficiency.
26. Detailed definitions and formulae for the calculation of energy efficiency are to be found in the appendix to the present guidelines.

Determination of target values

27. The procedure for determining target values has to be practical, and to take account of both ecological and economic criteria. The energy efficiency is assessed on the basis of the potential energy savings of companies, either individually or grouped together in an association.
28. To calculate the target values, the following basics have to be elaborated:
 - a) Energy consumption and reference values for the years 1990, 2000³ and 2010.
 - b) Summarised description of the current state of technology and of the energy saving potential in relation to measures already implemented.
29. Future CO₂ emissions are estimated from the target values established.

Intermediate targets

30. The reduction path is divided into at least three phases, with defined intermediate targets. The first phase will end in the year 2003, and the second phase in 2007.
31. At the end of the first phase, a report is to be submitted, according to the provisions of number 32. This intermediate report is to serve as a basis for the Federal Council to make a decision on whether additional measures, in particular a CO₂ tax, are to be taken.

Reporting

32. Each year the association or large company is to deliver the federal government (via the Energy Agency for the Economy) a report with the aggregated data on energy consumption for each source of energy, energy efficiency and CO₂ emissions, and reference values, taking account of the requirements of the "Swiss Energy" analysis of effectiveness and controlling. The current figures are to be given in a summary table, together with the figures for previous periods.

³ In justified cases (cost of collecting data) the data for 1999 may be used

Audit

33. The data given in the report must be verified by an auditing unit within the company or the association.

34. In addition, an external auditing team is to examine the plausibility of the report, based on values from experience, and on comparisons with other official sources. The federal government reserves the right to carry out subsequent checks on certain data from companies.

Part II: Formal commitments

Legal basis

35. The legal basis is found in the CO₂ Law of 8 October 1999. With a view to the implementation of Art. 9 of the CO₂ Law, it is to be noted that according to that article, large companies, groups of consumers and energy-intensive companies may be exempted from a possible CO₂ tax if they make a formal commitment to the federal government on limiting their CO₂ emissions.

36. The intention to make a formal commitment, and its benchmark figures may be submitted to the federal government before the introduction of the tax. The federal government will make a statement.

Those for whom these guidelines are intended

37. Part II of these guidelines is intended for emitters that take voluntary measures to reduce their CO₂ emissions in order to be exempted from the CO₂ tax.

38. A formal commitment, according to Art. 9 of the CO₂ Law, may be made to the federal government by large companies and associations having total emissions of at least 250,000 tonnes of CO₂ per year, and energy-intensive companies.

39. For individual companies, it is beneficial to join an association or group of companies, and to define a common CO₂ emissions reduction target. Forming an association or a group is appropriate if the interests of the participating companies are compatible.

40. The requirements for an association to be recognised are: the existence of clearly identifiable system boundaries, the existence of a legal identity for the association, the presence of sufficient structures and means, and the written agreement of each company. The groups of companies within an association must emit a combined total of at least 10,000 tonnes of CO₂ per year, and as a rule must comprise at least 5 companies. A benchmark group (see appendix) comprises at least 30 companies.

41. If an association is made up of several groups of companies, each group of companies is to define its own legally binding reduction target. The burden sharing within the association must be disclosed.

Structural changes in the composition of associations or companies

42. The extent of a formal commitment on limiting CO₂ emissions has to be adjusted in cases of changes in the composition of an association through companies joining or leaving. The potential contribution of the company joining or leaving is taken into account, and results in an increase or decrease in the target values for the association. Details concerning joining and leaving are to be regulated in the formal commitment.
43. Ceasing business activity because of bankruptcy, closing down certain production sites without their replacement, or outsourcing certain business and production units outside the association do not count as emission reductions. The maximum CO₂ emissions allowed are reduced in the appropriate proportion. For any additional business activity taken up by the company, the maximum CO₂ emissions allowed are increased in the appropriate proportion.
44. Any adjustments to existing formal commitments, as a result of companies joining or leaving, may take place at the beginning of each calendar year.
45. In cases of companies joining or leaving, the federal government reserves the right to re-examine the formal commitment.

Target values

46. CO₂ emissions target (CO₂ cap) and CO₂ intensity are the decisive target values, and are binding items in a formal commitment.
47. Detailed definitions and formulae for calculating both these target values are given in the appendix to the present guidelines.

Determination of target values

48. The procedure for determining the target values in the spirit of Art. 9 of the CO₂ Law must above all be practical, and must take account of both ecological and economic criteria. The potential for reduction is not the same for all industrial sectors. Measures already implemented reduce the potential of consumers. In general, the performance of consumers who are exempted from the tax should be in a certain balance with the performance of consumers who are subject to the tax.
49. To determine the target values, the following basics are to be elaborated and briefly presented:
- a) Documentation of quantified energy consumption, CO₂ emissions and output, or the reference value for the basis year 1990, and as a rule for the year 2000 or a later year. If data for 1990 cannot be estimated in a sufficiently reliable way, a plausible, justified prediction for the period 1990 to 2000 is to be assumed.

b) Brief description of the current level of energy efficiency, or CO₂ efficiency.

c) Summary of measures already implemented (improvements in energy efficiency, substitution) and their effectiveness.

d) The expected increase in output is to be given, and justified.

e) Summary of technically possible measures, and documentation of planned measures, with an estimation of their effectiveness and their costs, or their pay-back time.

50. The CO₂ target values are to be deduced based on these data. The estimated consumption of each type of fossil fuel, on which the CO₂ target values are based, is also to be given.

51. The most important criteria for the assessment and approval of the target values by the federal government are

- the targets according to the CO₂ Law,
- energy savings achieved since 1990 and the remaining reduction potential,
- the economic viability of measures related to CO₂,
- the expected increase in production.

52. For combustible fuels, on average the target is to be a reduction of 15 % in emissions compared with 1990. Deviations above and below are obtained from the remaining reduction potential, the economic viability of measures and the expected increase in output.

53. The emission target is fixed for the year 2010. Emissions allowances for the period 2008 to 2012 correspond to five times this value.

54. In special cases, the reduction in CO₂ emissions that are not attributable to the use of fossil fuels for energy generation may also be the subject of a formal commitment, and be recognised as a qualified measure. Details are to be specified in the formal commitment.

55. Planned CO₂ reduction measures in the form of projects for climate protection in other industrialised countries (Joint Implementation) and in developing countries (Clean Development Mechanism) are recognised as part of a formal commitment, provided that they are validated and approved by the host country. Projects to enhance energy efficiency or to encourage renewable forms of energy are eligible⁴.

⁴ The type of eligible projects will be reviewed, and if necessary adjusted, as soon as an international agreement has been reached.

Intermediate targets

56. The reduction path is made up of at least three phases, for which intermediate targets have to be defined. The first phase ends in 2003, and the second in 2007.

57. When the intermediate targets are assessed, deviations resulting from growth in output greater or lesser than that expected are to be taken into account. Other justified deviations up to 2 per cent may be tolerated. This rule does not apply for the CO₂ emission target for the year 2010.

58. If the target values are outside the range of tolerance, the association or company must justify the deviation, and produce a revised plan of measures or of investments. The federal government may require, at any time, a compliance reserve (guarantee) to cover non-compliance with the targets.

59. If, during the second phase it appears that unforeseeable events render the targets unachievable, it is possible to adjust the target values, based on the procedure described in numbers 48 to 55.

Reporting

60. Each year, the association or large company must provide the federal government (via the Energy Agency for the Economy) with the aggregated data for the association or group of companies. This is to quantify energy consumption, reference values, CO₂ emissions and CO₂ intensity, taking account of the requirements of the "Swiss Energy" analysis of effectiveness and controlling. The current data are to be given in a summary table, together with the data for previous periods.

61. A detailed report is due after each phase. It is to contain at least the following elements:

- a) CO₂ emissions, energy consumption for each type of fuel, and energy efficiency, together with data for previous periods,
- b) all measures taken during the review period, which have effects on energy consumption and on CO₂ emissions,
- c) other measures, and their effectiveness,
- d) comparison between the targets and achievements for both CO₂ target values,
- e) purchases and sales of certificates,
- f) reasons for deviations and delays, together with a description of measures to offset any excesses above the trends,
- g) perspectives for the next phase.

62. The data are to be recorded by each company, in a uniform table, according to the appendix, and for reporting, they are aggregated by group of companies or by association. Comments are to be made on the data, trends and deviations.

63. The first report, on the phase up to the end of 2003 is to be submitted by 1 May 2004.

Audit

64. The data in the report are to be verified by an audit unit within the company or the association.

65. In addition, an external audit team is to examine the plausibility of the report based on values from their experience, and on comparisons with other official sources. The federal government reserves the right to carry out subsequent checks on certain data from companies.

Assessment of target attainment

66. The target year is 2010, but target attainment is assessed based on average emissions from 2008 to 2012.

67. To assess target attainment for associations made up of several groups of companies, the level of the association is relevant in the first place. If the emission target has not been met, the level of the group of companies is to be examined.

Overview:

Level of association made up of several groups of companies (e.g. Energy Agency for the Economy)

- ET is met: exemption for all companies
- ET is not met: assessment by group of companies

Level of group of companies / association made up of only one group of companies

- Determination of a revised emission target, corrected for growth, for the year 2010 (ET*)
- ET* is met: exemption
- ET* is not met: taxation

ET: emission target, including remainder of certificate purchases and sales

ET*: revised emission target corrected for growth, including remainder of certificate purchases and sales

68. If an association made up of several groups of companies meets the CO₂ emission target, the formal commitment is considered to have been met, and the companies making up the association are exempted from the CO₂ tax.

69. If the actual CO₂ emissions of an association made up of several groups of companies exceed the CO₂ emission target, target attainment is assessed by examining the targets for each group of companies.

70. To evaluate target attainment at the level of a group of companies, or at the level of an association comprising only one group of companies, the following rules apply:

Emissions exceeding the adjusted emission target may be compensated by means of certificates.

- The emission target is adjusted according to whether growth is greater or lesser than the value used in the formal commitment
- Greater growth leads to an upward adjustment of the emission target
- Lesser growth leads to a downward adjustment of the emission target es.

71. Greater or lesser growth is determined based on the year 2010. Emissions allowances for the period 2008 to 2012 are to be adjusted appropriately.

72. The CO₂ intensity target is used to assess the plausibility of greater or lesser growth (see appendix).

73. If a group of companies in an association comprising only one group of companies does not comply with the emission target (ET* including the remainder of certificates), it is considered that the formal commitment has not been met.

Principle rules on a scheme for a domestic emissions trading scheme

74. The most important rules are:

- a) Emissions allowances that will probably not be used for compliance may be traded.
- b) For the first time at the end of 2008, and subsequently at the end of each year, during the period from 2008 to 2012, the emissions allowances will be invalidated according to the amount of CO₂ actually emitted.
- c) Emissions trading within a group of companies is free from regulation (internal trade).
- d) The group of companies or the association is to regulate the participation of its members in trade with other players (external trade).
- e) The association must keep a register in which all external trade transactions are recorded.
- f) If the growth adjusted CO₂ emission target is not achieved due to the over-selling of allowances, the seller is liable.

75. An association made up of several groups of companies is free to further regulate emissions trading within the association, taking account of the present rules (above all with a view to meeting the overall CO₂ emission target).

Possible non-compliance regime

76. If the emission target (ET*) is not met, the group of companies is liable. Internal burden sharing is regulated between the members of the group of companies.

77. In case of non-compliance with the emission target (ET*), tax exemption, according to Art. 9 of the CO₂ Law, is cancelled, and the sanctions provided for in the formal commitment are applied. The CO₂ tax, with interest, is payable for every tonne of CO₂ emitted since the introduction of the tax. In paying back the tax, the companies that are members of the association are not entitled to the redistribution of the tax, according to Art. 10 of the CO₂ Law, for periods that have already been settled.

78. If the deviations from the reduction path exceed the range of tolerance (see number 57), the federal government may require that a compliance reserve (guarantee) for the CO₂ tax be paid into a blocked account opened specially for this purpose. This guarantee will only be released once the association can prove that it is within the target range.

Flexible mechanisms

79. According to Art. 2 Para. 7 of the CO₂ Law, emissions reductions achieved in other countries may be taken into account in an appropriate way. The flexible mechanisms of the Kyoto Protocol (JI, CDM, IET) are only to be used to supplement domestic measures. It is to be ensured that Swiss and foreign certificates are fungible.

80. For CO₂ reductions achieved outside Switzerland, the provisions of the UNFCCC guidelines are to be used as far as possible, once an international agreement has been reached on the implementation of the Kyoto Protocol. Projects to improve energy efficiency and to promote renewable forms of energy are already eligible, even before there is an international agreement (see number 55).

81. The proportion of the reductions that may be achieved outside Switzerland is to be fixed as soon as possible, regardless of the results of the Conferences of the Parties (CoP6^{bis} and CoP7).

Appendix

Models of targets for groups, definition of target values, monitoring and reporting.