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REVIEW PRACTICE GUIDANCE

Transparency

Biennial Reports and Reporting on the Use of Market-Based Mechanisms by the European Union and its Member States

Background paper for the 4th Lead Reviewers Meeting, 6 and 7 March 2017, Bonn, Germany

Contents

Acronyms and abbreviations

AAU	assigned amount unit
AEA	annual emission allocation
Annex I Parties	Parties included in Annex I to the Convention
BR	biennial report
BR[1][2][3][4][5][6]	[first][second][third][fourth][fifth][sixth] biennial report
BR guidelines	"UNFCCC biennial reporting guidelines for developed country Parties"
CDM	clean development mechanism
CER	certified emission reduction
CO_2	carbon dioxide
CO_2 eq	carbon dioxide equivalent
COP	Conference of the Parties
CTF	common tabular format
ERT	expert review team
ERU	emission reduction unit
EU	European Union
EU ETS	European Union Emissions Trading System
EU-15	the 15 member States that formed the European Community at the time of ratification of the Kyoto Protocol (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland)
EU-28	the 28 member States (including the EU-15) and Bulgaria, Croatia, Cyprus, Czechia, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia
ESD	effort-sharing decision
GDP	gross domestic product
GHG	greenhouse gas
IAR	international assessment and review
IPCC	Intergovernmental Panel on Climate Change
JI	joint implementation
lCERs	long-term certified emission reductions
LDCs	least developed countries
LULUCF	land use, land-use change and forestry
MBM	market-based mechanism
MRV	measurement, reporting and verification
NA	not applicable
NC	national communication
NE	not estimated
NO	not occurring
non-Annex I Parties	Parties not included in Annex I to the Convention
N_2O	nitrous oxide
PaMs	policies and measures
PFC	perfluorocarbon
QERT	quantified emission reduction target
SIDS	small island developing States
tCERs	temporary certified emission reductions
TRR	technical review report
TRR2	second technical review report
UNFCCC	United Nations Framework Convention on Climate Change

I. Background

A. General

1. The COP, by decision 1/CP.16, decided that developed country Parties should, building on existing reporting and review guidelines, processes and experiences, enhance the reporting in their NCs and submit BRs, which outline their progress in achieving emission reductions and provide information on their provision of financial, technological and capacity-building support to non-Annex I Parties.

2. The COP, by decision 23/CP.19, adopted the "Guidelines for the technical review of information reported under the Convention related to greenhouse gas inventories, biennial reports and national communications by Parties included in Annex I to the Convention". The technical review of the BRs is the first step in the IAR process. The purpose of the technical review of the BRs and NCs of Annex I Parties is to ensure that the requirements of the reporting guidelines have been fulfilled, to promote consistency among Parties' reports, to help Parties to improve their reporting, to examine Parties' progress in achieving their targets and to ensure that the COP has reliable information on the implementation of Parties' commitments under the Convention.

B. Purpose

3. The purpose of this paper is to provide background information on the use of units from MBMs by the EU and its member States in order to enable ERTs to better understand and assess the reported information, which is relevant for the assessment of the progress towards the EU target. The paper analyses the information reported by the EU and its member States in their BR2s relating to their use of MBMs for achieving the EU target under the Convention by 2020, and how this information was assessed in the respective TRR2s, with a view to providing ERTs with guidance for the assessment of information reported on the use of units from MBMs for the upcoming reviews before 2020 and beyond.

4. Examples from the BR2s are provided throughout the paper to demonstrate best practices, to enhance ERTs' understanding of the reporting requirements and to enhance the consistency of the review process.

C. Requirements of the Biennial reporting guidelines for developed country Parties on reporting on market-based mechanisms

5. The BR guidelines stipulate, in paragraph 5 that "The description of the Party's economy-wide emission reduction target shall include the following information, taking into consideration any relevant decisions of the Conference of the Parties (COP):…(e) Use of international market-based mechanisms in achieving its emission reduction target, taking into consideration any relevant decisions adopted by the COP, including a description of each source of international units and/or allowances from market based mechanisms and the possible scale of the contributions of each."

6. The guidelines further stipulate in paragraph 10 that "For each reported year, information reported on progress made towards the emission reduction targets shall include, in addition to the information noted in paragraph 9(a–c) above, information on the use of units from market-based mechanisms."

7. The BR guidelines require reporting of information on the use of units from MBMs as part of progress towards achieving the target under the Convention. In each BR submission,

Parties that use the units from MBMs should report on the units used in each year of the reported period. For example, for the BR2, this period was 2010–2014, and for the BR3 the period will be 2010–2016.

8. With regard to progress in reaching their target, Parties are required to complete CTF tables 4, 4(a)I, 4(a)II and 4(b). In CTF table 4, Parties are requested to report on their GHG emissions without LULUCF as well as on the expected contribution from LULUCF and MBM units, as applicable. In CTF tables 4(a)I and 4(a)II, Parties that have selected the option to include LULUCF in their emission reduction target under the Convention and/or the Kyoto Protocol are expected to provide further information on their accounting of the relevant emissions. In CTF table 4(b), Parties are requested to provide more detailed information on the units used under the Kyoto Protocol (AAUs,[1] ERUs,[2] CERs,[3] tCERs and lCERs) and/or the units used from MBMs under the Convention, as applicable.

II. Reporting challenges

9. During the review of the BR2s, ERTs raised the issue of completeness and transparency of reporting by the EU and its member States on the use of units from MBMs during the reporting period. During the review weeks, many experts from EU member States responded to the questions from the ERTs, clarifying that information on the use of units from MBMs was not available at the time of submission of the BR2s and during the review weeks.

A. Timeline for reporting on units by European Union in relation to the submission of biennial reports

10. In the BR2s, the EU and its member States were not in the position to report on the use of MBMs due to the availability of relevant data only after the deadline for the BR2 submission see para. 36 below). The EU and its member States may again not be in a position to provide information on the use of units from MBMs in their coming BRs owing to the misalignment of the reporting timelines under the UNFCCC with those specified by EU legislation. Given the modalities of the EU 2020 target, the EU should report on the use of units from MBMs under the ESD and EU ETS. The data availability may vary and be misaligned with the BR submission deadlines. Table 1 below sets out clearly that data on the use of MBMs have a two- to three-year delay.

Table 1
Expected availability of data on the use of MBMs under the ESD and the EU ETS

BR submission date	*ESD*	*EU ETS*
BR3: 1 January 2018	2013–2015[a]	2013–2014
BR4: 1 January 2020	2013–2017[a]	2013–2016
BR5: 1 January 2022	2013–2019[a]	2013–2018
BR6: 1 January 2024	2013–2021[a]	2013–2020

[a] Assuming no delay in the internal EU compliance process.

[1] An AAU is equal to 1 metric tonne of CO_2 eq. Each Annex I Party issues AAUs up to the level of its assigned amount, established pursuant to Article 3, paragraphs 7 and 8, of the Kyoto Protocol. AAUs may be exchanged through emissions trading.

[2] An ERU is equal to 1 metric tonne of CO_2 eq. ERUs are generated for emission reductions or emission removals from JI projects.

[3] A CER is equal to 1 metric tonne of CO_2 eq. CERs are issued for emission reductions from CDM project activities. Two special types of CERs, tCERs and lCERs, are issued for emission removals from afforestation and reforestation CDM projects.

11. ERTs should take the information on data availability into account when reviewing the information provided by the EU and its member States and when assessing their progress to their targets. The suggested approach for the review of information on the use of units from MBMs encourages ERTs to be mindful not only of the timeline of data availability but also of the fact that within that timeline, Parties should present complete and transparent data and explanations.

12. With regard to the reporting on the use of units from MBMs under the ESD, assuming there are no unforeseen delays with the EU's internal annual compliance process (see para. 37 below), the EU and its member States should be in a position to report in BR3s on their use of units from MBMs for 2013, 2014 and 2015, in BR4s for the years up to and including 2017, in BR5s for the years up to and including 2019, and in BR6s for the years up to and including 2021 (see table 1 above).

13. Should there be any delay in the internal EU compliance process, the data availability may be affected and this will cause a delay by a year. In such case, BR3s should contain information up to and including 2014, the BR4s up to and including 2016, the BR5s up to and including 2018, and the BR6s up to and including 2020. It is important to note that in case of reporting on the ESD, the information reported by the EU on the use of MBMs under the ESD should reflect the sum of the data reported by all individual member States.

14. With regard to the reporting on the use of units from MBMs under the EU ETS, the EU should be able to provide in its BR3 information for 2013 and 2014, in its BR4 for the years up to and including 2016, in its BR5 for the years up to and including 2018, and in its BR6 for the years up to and including 2020.

B. Reporting on units in the common tabular format tables of the third biennial report submission

15. As was discussed above, the timelines for submissions of the BRs and data availability on the use of units from MBMs are not aligned. Looking forward to the upcoming BR3s, the EU and its member States should report in CTF table 4 information presented in table 2 below. The EU member States should report on the use of MBMs under the ESD for 2013-2015. The EU should report information on the total use of MBMs under the ESD by the member States for the same period as well as on the use of MBMs under the EU ETS. In order to underpin the information presented in CTF table 4 and increase transparency, it is suggested that the EU provide a separate table presenting the use of MBMs by each MS, as applicable, and the resulting sum (see table 2 below).

Table 2
Information to be included in CTF table 4 of BR3s of the EU member States

	Total emissions excluding LULUCF	*Contribution from LULUCF*	*Quantity of units from MBMs under the Convention**		*Quantity of units from other MBMs*	
Year	(kt CO_2 eq)	(kt CO_2 eq)	(number of units)	(kt CO_2 eq)	(number of units)	(kt CO_2 eq)
1990	Base year emissions	NA	NA	NA	NA	NA
2010	2012 GHG inventory	NA	NA	NA	NA	NA
2011	2013 GHG inventory	NA	NA	NA	NA	NA
2012	2014 GHG inventory	NA	NA	NA	NA	NA

	Total emissions excluding LULUCF	*Contribution from LULUCF*	*Quantity of units from MBMs under the Convention**		*Quantity of units from other MBMs*	
2013	2015 GHG inventory	NA	MBMs 2013	kt CO_2 eq 2013	NA	NA
2014	2016 GHG inventory	NA	MBMs 2014	kt CO_2 eq 2014	NA	NA
2015	2017 GHG inventory	NA	MBMs 2015[a]	kt CO_2 eq 2015[a]	NA	NA

[a] Assuming no delay in the internal EU compliance process.

* Recommended footnote (as applicable): The Party does not plan to make use of MBMs under the Convention.

16. In CTF tables 4 and 4(b), if an EU member State does not plan to make use of MBMs under the Convention, then it may use the notation key "NA" for all relevant years and include an explanatory custom footnote. If a member State made use of units from MBMs but for some reason is unable to estimate the amount for a specific year, then it could use the notation key "NE". When a member State made use of units from MBMs but not for all years, then for the years when no units are used, the Party should report "0" (zero) in the respective cells. In all other cases the units used from MBMs under the Convention and reported by the EU member States in CTF tables 4 and 4(b) will need to reflect the sum of the CERs and ERUs surrendered.

17. It has to be noted that CERs and ERUs used under the Convention may not necessarily match the sum of CERs and ERUs used under the Kyoto Protocol as the use of units by the EU member States from MBMs under the Convention is subject to the qualitative and quantitative criteria explained above (see paras. 31-33 below). In CTF table 4(b), the information on Kyoto Protocol units will need to reflect the information in the standard electronic format tables submitted in relation to the EU target for the second commitment period of the Kyoto Protocol.

III. Suggested approach to review the information reported by the European Union and its member States

Review challenge

How should the ERT assess the information on MBM units reported by the EU and its member States in accordance with paragraph 10 of the BR guidelines?

Suggested approach

EU

- The ERT should assess whether the information reported by the EU covers the MBM units used under the EU ETS as well as the sum of MBM units used by the member States under the ESD, in accordance with the timetables provided in this paper.
- If the data reported by the EU do not reflect the information provided by the member States, the ERT should provide in the TRR a recommendation for transparency.

EU member States

- The ERT should check whether each member State clearly state whether or not it plans to make use of MBM units.

Review challenge

- If the EU member State did not provide information on whether it plans to make use of MBM units, the ERT should provide a recommendation for completeness.

EU and EU member States

- If **a Party provides data on MBM units** but not for all the years stipulated in table 1 above, the ERT should:
  - Check whether the Party presents an adequate explanation for the missing data in the BR.
  - If no explanation for the missing data is provided, the ERT should:
    - Clarify during the review why the required information is not reported, and include in the TRR the clarification received during the review.
    - Provide a recommendation for transparency that the Party provide the missing information in its next BR, and in case this is not feasible, that the Party provide the relevant explanations for any missing data.
  - If an adequate explanation for the missing data is provided, the ERT should include it in the TRR, and provide a recommendation for completeness.
- If **a Party does not provide data on MBM units** used, the ERT should:
  - Clarify during the review why the required information is not reported.
  - Provide in the TRR a recommendation for completeness

IV. The 2020 European Union emission reduction target and the use of units from market-based mechanisms

A. The 2020 European Union target

18. The EU and its member States committed to a joint emission reduction target of 20 per cent emission reduction by 2020 compared to the 1990 level. The legally binding target trajectories for the period 2013–2020 are enshrined in both the EU ETS directive[4] and the ESD[5]. These trajectories do not only result in a 20 per cent reduction in GHG emissions by 2020 compared with the 1990 level (14 per cent reduction compared with the 2005 level), but also define the EU's annual target pathways to reduce its GHG emissions from 2013 to 2020.

19. While the EU ETS target (21 per cent emission reduction by 2020 compared to the 2005 level) is to be achieved by the EU as a whole, the ESD target (10 per cent emission reduction by 2020 compared to the 2005 level) was divided into national targets to be achieved individually by member States (see figure 1 below)[6]. In effect, the EU member States focus their national mitigation efforts on the achievement of their domestic ESD target.

20. The EU ETS covers about 45 per cent of the EU's GHG emissions and includes the following sectors and gases, with a focus on emissions from large point sources that can be measured, reported and verified with a high level of accuracy:

[4] EU directive 2003/87/EC and amendments.
[5] EU decision 406/2009/EC.
[6] GHG emissions of the EU equal the sum of GHG emissions of its member States.

(a) CO_2 from:

(i) Power and heat generation;

(ii) Energy-intensive industry sectors, including oil refining, steel and iron production, aluminium and other metals, cement, lime, glass, ceramics, pulp, paper and cardboard, acids, and bulk organic chemicals;

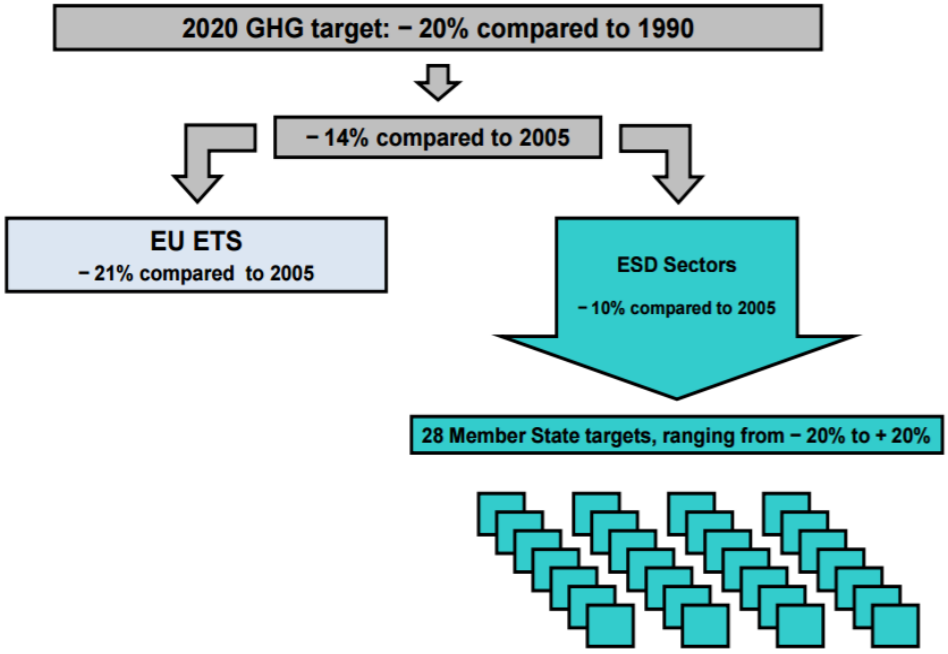
(iii) Civil aviation;

(b) N_2O from the production of nitric, adipic and glyoxylic acids and glyoxal;

(c) PFCs from aluminium production.

21. The ESD covers the member States' GHG emissions which are not covered by the EU ETS, i.e. about 55 per cent of the EU's GHG emissions. The ESD covers emissions from transportation (excluding civil aviation and international shipping), non-ETS industries, agriculture (excluding LULUCF) and waste.

Figure 1
The 2020 EU emission reduction target



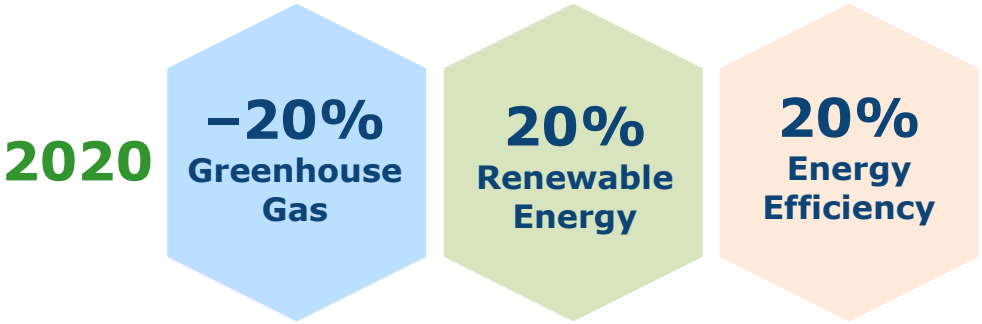
22. The EU and its member States have retained the option to use the units from MBMs for achieving their target under the Convention. A limited number of CERs, ERUs and units from new MBMs, subject to qualitative and quantitative limits, may be used to achieve the targets under the ESD (see paras. 32–34 below) and the EU ETS (see paras. 41–43 below).

23. The achievement of the EU emission reduction target largely relies on a package of EU-wide mitigation actions (see figure 2 below). Some of the most prominent mitigation actions are in the areas of renewable energy and energy efficiency and address primarily the energy and transport sectors. The EU has set a binding target that 20 per cent of its energy should come from renewable sources. This target is underpinned by the EU directive on renewable energy.[7] The EU has also set a target that its energy efficiency should improve by 20 per cent by 2020, and this target is underpinned by the EU directive on energy efficiency.[8] The GHG emission

[7] EU directive 2009/29/EC.
[8] EU directive 2012/27/EU.

reduction target along with the 20 per cent renewable energy target and the 20 per cent energy efficiency target are three of five targets of the Europe 2020 Strategy, which aims at increasing the competitiveness of the EU economy and creating jobs.

Figure 2
The 2020 EU climate and energy targets



24. Although mitigation actions in the energy and transport sectors and the associated targets are intended to support the achievement by the EU of its emission reduction target, the non-attainment of these other targets will not necessarily lead to the non-attainment of the emission reduction target. The targets are not preconditions for each other, even though they are interrelated and mutually reinforcing, for example:

(a) Lower energy consumption levels (encouraged in part by the energy efficiency target) and a less carbon-intensive fuel mix (encouraged in part by the renewable energy target) are two key drivers of GHG emission reductions;

(b) An increasing share of renewable energy sources helps meet the energy efficiency target, as a 100 per cent transformation efficiency is assumed for renewables, which reduces the level of primary energy consumption; and

(c) Measures primarily designed to deliver GHG emission reductions (i.e. establishing a carbon price signal through the EU ETS) may encourage investments in low-carbon energy sources and energy efficiency.[9]

25. These interactions between the 2020 climate and energy targets are at the core of the EU climate and energy package, and the progress in achieving these targets is discussed in the mitigation section of the BRs of the EU member States.

B. Targets, the use of units from market-based mechanisms and compliance under the European Union effort-sharing decision

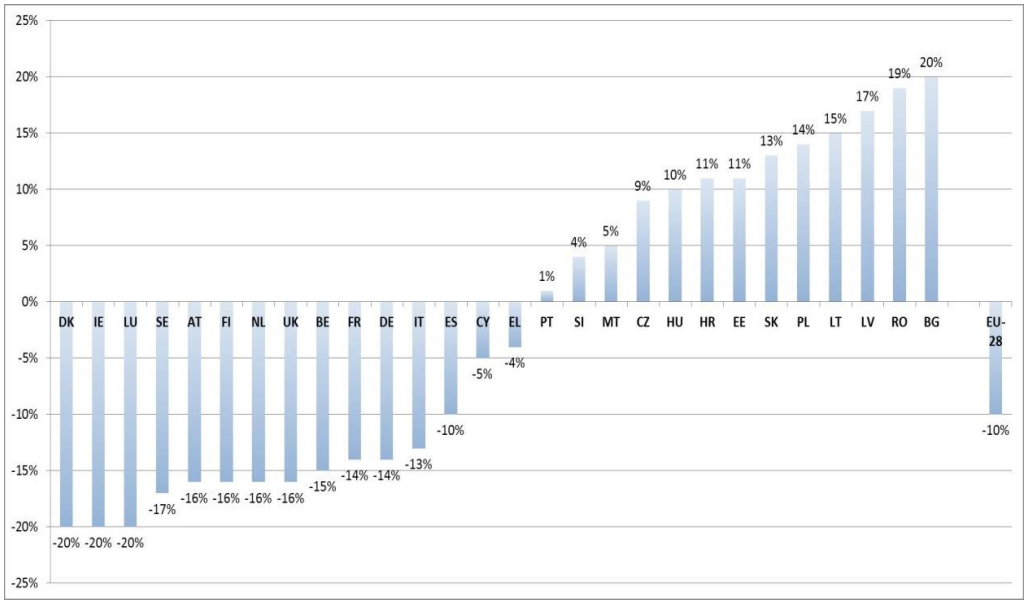
1. National emission reduction targets

26. The ESD establishes a framework to set annual national emission targets for each EU member State for the period of 2013–2020 for those emissions not covered by the EU ETS (see para. 21 above), expressed as a percentage change from the 2005 level. In March 2013, the European Commission formally adopted the national annual limits throughout the period of 2013–2020 for each member State. They have been set on the basis of the relative wealth (measured by GDP per capita) of each member State, and range from a 20 per cent emission reduction by 2020 (from the 2005 level) for the richest, Denmark, Ireland, and Luxemburg, to a 20 per cent increase for the least wealthy, Bulgaria (see figure 3 below).

[9] See <http://www.eea.europa.eu/publications/trends-and-projections-in-europe-2015>.

27. The ESD establishes a mechanism by which a linear path of maximum GHG emissions in 2013 to 2020 is to be determined for each member State. This is done by linear extrapolation between the emission level of 2009 to the target level in 2020. Less wealthy countries are allowed emission increases in the ESD sectors because their relatively higher economic growth is likely to be accompanied by higher emissions. Nevertheless, their targets represent a limit on their emissions compared with projected business-as-usual growth rates. A reduction effort is thus required by all member States. By 2020, the national targets will collectively deliver a reduction of about 10 per cent in total EU emissions from the sectors covered by the ESD compared with the 2005 level.

Figure 3
EU member State targets under the ESD



Source: Report from the Commission to the European Parliament and the Council on evaluating the implementation of Decision No. 406/2009/EC pursuant to its Article 14 (COM/2016/0483 final).

28. The absolute GHG emission levels and the resulting annual GHG emission limits were determined following the adoption of the ESD. The base value was determined by adjusting the actual 2005 emissions not covered by the EU ETS, i.e. by subtracting those emissions which, due to changes in the EU ETS, are now covered by the EU ETS.[10] The 2009 emissions, necessary for the establishment of the linear reduction path, were finally determined in 2013.[11]

29. Pursuant to Article 10 of the ESD, each member State will have the AEAs for the period of 2013-2020. The AEAs shall be adjusted if there is a change in the coverage of the EU ETS that affects the ESD. A general adjustment of EU member State AEAs was published by the European Commission in October 2013 as a result of the extension of the scope of the EU ETS for the period of 2013–2020. Because of the activities that were included in the EU ETS that had previously been covered by the ESD, the AEAs were reduced by a quantity corresponding to the amount of the EU ETS allowances issued to each member State as a result of the extension.

[10] A further adjustment is due to the switch from global warming potentials according to the Second Assessment Report of the IPCC to the those of the Fourth Assessment Report of the IPCC.

[11] Commission Decision 2013/162/EU of 26 March 2013 on determining member States' annual emission allocations for the period from 2013 to 2020.

30. In some cases, the AEAs also had to be adjusted because a member State unilaterally (in addition to the general EU ETS scope extension referred to in paragraph 20 above) included an activity in the EU ETS that was not previously covered by the system, or excluded certain small installations from the EU ETS from 1 January 2013.

31. After 2013, the EU member State AEAs may change for two reasons: (1) a member State excludes from or includes in the EU ETS further installations or activities for the period of 2013–2020; or (2) as a result of the new guidelines for national GHG inventories that will be applied from 2015 onwards. Under Article 27, paragraph 2, of the EU Monitoring Mechanism Regulation[12] (which sets rules for the reporting and monitoring of member State GHG emissions), a revision of the AEAs might occur in 2016 if the new guidelines result in changes exceeding 1 per cent of total emissions by member States. Any such revisions would affect AEAs for the period of 2017–2020 only.

2. Use of units from market-based mechanisms

32. The ESD allows EU member States to make use of international emission reduction credits for meeting their annual targets, with certain quantitative and qualitative limitations. For the ESD sectors, the annual use of international credits is limited to 3 per cent of each member State's verified ESD emissions in 2005. Higher CDM quality standards apply to the use of CERs for compliance with the EU's target under the Convention. Member States that do not use their 3 per cent limit in any specific year can bank it for their own use until 2020 or transfer the unused part of the limit to another member State.

33. Twelve member States fulfilling additional criteria in Article 5, paragraph 5, of the ESD (Austria, Belgium, Cyprus, Denmark, Finland, Ireland, Italy, Luxembourg, Portugal, Slovenia, Spain and Sweden) may use credits from projects in LDCs and SIDS up to an additional 1 per cent of their verified emissions in 2005. These credits are not bankable or transferable. A total of approximately 750 Mt of international credits can be used under the ESD by all EU member States during the period of 2013–2020.[13]

34. Regarding the qualitative limitations under the ESD, each member State can use for compliance any project credits meeting the conditions established by Article 5, paragraph 1, of the ESD.[14] A list of eligible project credits is regularly updated on the "Documentation" web

[12] EU regulation 525/2013.

[13] "Member States with a negative limit, or a positive limit of at most 5 per cent, as set out in Annex II, which are listed in Annex III, shall, in addition to credits used pursuant to paragraph 4, be allowed to use additional credits amounting to 1 per cent of their verified emissions in 2005 from projects in LDCs and SIDS each year, subject to compliance with one of the following four conditions: (a) the direct costs of the overall package exceed 0,70 per cent of GDP according to the Commission's Impact Assessment accompanying the Package of Implementation measures for the EU's objectives on climate change and renewable energy for 2020; (b) there is an increase of at least 0,1 per cent of GDP between the target actually adopted for the Member State concerned and the cost-effective scenario according to the Commission's Impact Assessment referred to in point (a); (c) more than 50 per cent of the total emissions covered by this Decision for the Member State concerned are accounted for by transport-related emissions; or (d) the Member State concerned has a renewable energies target for 2020 in excess of 30 per cent as set out in Directive 2009/28/EC."

[14] "Member States may use the following GHG emission reduction credits to implement their obligations under Article 3: (a) Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs), as set out in Directive 2003/87/EC, issued in respect of emission reductions until 31 December 2012 which were eligible for use in the Community scheme during the period from 2008 to 2012; (b) CERs and ERUs issued in respect of emission reductions from 1 January 2013 from projects which were registered before 2013 and which were eligible for use in the Community scheme during the period from 2008 to 2012; (c) CERs issued in respect of emission reductions achieved from projects implemented in LDCs which were eligible for use in the Community scheme during the period from 2008 to 2012, until those countries have ratified a relevant agreement with the Community or until 2020, whichever is the earlier; (d) temporary

page under the "ESD general positive list"[15] of the European Commission Climate Action website. The list contains several thousand items, which are essentially as follows:

(a) All CDM and JI projects registered before 1 January 2013;

(b) All CDM projects in the LDCs registered after 1 January 2013; and

(c) Credits from afforestation and reforestation projects (tCERs and lCERs) that have not yet expired.

35. In addition, the 12 member States mentioned in paragraph 33 above can use for compliance any project credits meeting the conditions established by Article 5, paragraph 5, of the ESD.[16] The list of such project credits is much shorter, as it contains only projects in the LDCs and SIDS.

3. Timeline for reporting on the use of units from market-based mechanisms

36. The EU member States should have been in a position to report on their use of units from MBMs for 2013 and 2014 in their BR2s (submissions due 1 January 2016). However, the compliance process is dependent on the timely completion of the internal and international review processes, and any delays in these processes or any other technical issues linked to reporting may have an impact on the completion date of the compliance process. Such delays occurred in 2015 and thus, as noted by the EU member States in their BR2s, the use of units for 2013 would not be known until late in 2016 (see para. 52 below).

37. Nonetheless, 11 EU member States (Austria, Czechia, Denmark, France, Germany, Greece, Netherlands, Romania, Slovakia, Slovenia and Sweden) did report in their BR2s that, at least as emissions currently stood, they did not plan to make use of units from MBMs.

4. Compliance mechanism

38. At the EU level, under the ESD the Monitoring Mechanism Regulation compliance is assessed annually and is based on the results of the internal review of annual GHG inventory (prepared for the period ending two years before the year of reporting, that is X – 2, where X is the reporting year) and the review under the UNFCCC that is to be completed by the end of August in each reporting year (X).[17] The completion of the review process, in essence, signals that the emission figures reported by each EU member State have been reviewed and adjusted as necessary and can be considered final. Based on these final data, the European Commission issues a decision specifying each member State's emission data (the annual emission decision).

CERs (tCERs) or long-term CERs (lCERs) from afforestation and reforestation projects provided that, where a Member State has used tCERs or lCERs towards its commitments under Council Decision 2002/358/EC concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the UNFCCC and the joint fulfilment of commitments thereunder for the period from 2008 to 2012, the Member State commits to the continuing replacement of those credits by tCERs, lCERs or other units valid under the Kyoto Protocol before the expiry date of the tCERs or lCERs, and the Member State also commits to the continuing replacement of tCERs or lCERs used under this Decision with tCERs, lCERs or other units usable towards those commitments before the expiry date of the tCERs or lCERs. Where replacement takes place using tCERs or lCERs, the Member State shall replace also those tCERs or lCERs before their expiry date on a continuing basis, until their replacement with units of unlimited validity. Member States should ensure that their policies for purchasing these credits enhance the equitable geographical distribution of projects and the achievement of an international agreement on climate change."

[15] See <https://ec.europa.eu/clima/policies/effort/framework_en#tab-0-1>.

[16] See footnote 9 above.

[17] Submission of BR3 is due in 2018. The BR3s submitted by the EU member States should include fully reviewed 2015 GHG inventory data.

39. These data are entered into the EU registry and compared with the AEAs of each member State for the year, and the balance is calculated. Starting from the date of the annual emission decision, each member State has four months to take the actions it deems necessary before its compliance is determined (taking into account the use of flexibilities). Thus, by the end of year X, the compliance process for year X – 2 is closed. If the actual emissions for a member State are less than its AEA, the member State can bank the surplus and use it in later years when limits are lower or transfer the units to another member State. If the emissions exceed the AEA, the member State can borrow units from its AEA for the following year or request them from another member State.

C. Targets, the use of units from market-based mechanisms and compliance under the European Union Emissions Trading System

40. The emission reduction to be achieved from the sectors covered by the EU ETS is 21 per cent below the 2005 level. Compliance under the EU ETS, as for the ESD, is assessed annually, albeit at the level of installations.

1. Use of units from market-based mechanisms

41. Participants in the EU ETS can use international credits from the CDM and JI towards fulfilling part of their obligations under the EU ETS until 2020, subject to qualitative and quantitative limits.

42. Article 11(a), paragraph 8, of the amended EU ETS directive sets the upper limit for credit use for the period of 2008–2020 at 50 per cent of the reduction effort below the 2005 level.[18] The limit is disaggregated into installation-level limits in the regulation on international credit entitlements.[19] The initial international credit entitlements for each participant in the EU ETS for its first and second trading periods combined are determined by the member State and then approved by the European Commission in line with the relevant legislation. The expectation is that the sum of the installation-level limits will be lower than the upper limit allowed. However,

[18] All existing operators shall be allowed to use credits during the period from 2008 to 2020 up to either the amount allowed to them during the period from 2008 to 2012, or to an amount corresponding to a percentage, which shall not be set below 11 per cent, of their allocation during the period from 2008 to 2012, whichever is the highest. Operators shall be able to use credits beyond the 11 per cent provided for in the first subparagraph, up to an amount which results in their combined free allocation in the period from 2008 to 2012 and overall project credits entitlement equal to a certain percentage of their verified emissions in the period from 2005 to 2007. New entrants, including new entrants in the period from 2008 to 2012 which received neither free allocation nor an entitlement to use CERs and ERUs in the period from 2008 – 2012, and new sectors shall be able to use credits up to an amount corresponding to a percentage, which shall not be set below 4,5 per cent, of their verified emissions during the period from 2013 to 2020. Aircraft operators shall be able to use credits up to an amount corresponding to a percentage, which shall not be set below 1,5 per cent, of their verified emissions during the period from 2013 to 2020. Measures shall be adopted to specify the exact percentages which shall apply under the first, second and third subparagraphs. At least one-third of the additional amount which is to be distributed to existing operators beyond the first percentage referred to in the first subparagraph shall be distributed to the operators which had the lowest level of combined average free allocation and project credit use in the period from 2008 to 2012. Those measures shall ensure that the overall use of credits allowed does not exceed 50 per cent of the Community-wide reductions below the 2005 levels of the existing sectors under the Community scheme over the period from 2008 to 2020 and 50 per cent of the Community-wide reductions below the 2005 levels of new sectors and aviation over the period from the date of their inclusion in the Community scheme to 2020. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

[19] European Commission regulation (EU) 1123/2013.

since some entitlements are expressed as a percentage of verified emissions over the entire period, the overall maximum amount will be known only at the end of the third trading period.

43. In addition to the quantitative limits, qualitative limits also apply to the use of international credits in the EU ETS, including a ban on credits from nuclear energy, LULUCF and certain industrial gas projects. Credits from hydroelectric projects exceeding 20 MW of installed capacity can only be accepted under certain conditions, and the use of new project credits such as CERs after 2012 is prohibited, unless the project is registered in one of the LDCs.

2. Timeline for reporting on the use of units from market-based mechanisms

44. Since 2013, CERs and ERUs have not been used as compliance units within the EU ETS. Participating installations must request the exchange of CERs and ERUs to European emission allowances up to their individual entitlement limit set in the registry. It is no longer possible to track the use of flexible mechanisms in the EU ETS directly through the public website of the EU transaction log. The exchanges[20] at the installation level will be publicized three years after they are conducted[21]; therefore, information reflecting the use in 2013 will not become available until 2016. CTF table 4(b) requests information for years X – 3 and X – 2, thus Parties will need to provide information for 2015 and 2016 in their BR3s. However, given the three-year lag in the publication of the exchanges at the installation level, it is expected that the EU member States will be able to provide information only for 2013 and 2014.

3. Compliance mechanism

45. Industrial installations and aircraft operators covered by the EU ETS are required to have an approved plan for monitoring and reporting annual emissions. This plan is part of the permit to operate required by industrial installations. Every year, operators must submit an emissions report. The data for a given year must be verified by an accredited entity by 31 March of the following year. Once verified, operators must surrender the equivalent number of allowances by 30 April of that year.

V. Information on the use of units from market-based mechanisms reported in the second biennial reports

46. The information that was reported by the EU in the BR1 only partially referenced the 20 per cent reduction target pledged by the EU. The BR1s of the EU member States covered primarily the progress of the EU-15 towards its common target for the first commitment period of the Kyoto Protocol (2008–2012). In its BR1/CTF tables 4, 4(a)I, 4(a)II and 4(b), the EU also focused on the final data and information on the first commitment period of the Kyoto Protocol.

47. It is expected that more information on the use of units from MBMs will become available as 2020 approaches and Parties gain a better overview of whether they will be able to achieve their target through PaMs alone.

A. Information reported by the European Union in the second biennial report

48. In its BR2, the EU presented for the first time in great detail its 2020 target under the Convention and described how this target is to be achieved by its member States. The EU also

[20] In phase 3 of the EU ETS credits are no longer surrendered directly but instead exchangeable at any time throughout the calendar year for allowances. The summary of the international credits exchanged can be found in the carbon market reports. See <https://ec.europa.eu/clima/news/articles/news_2015111802_en>.

[21] For updated information on the exchange and international credit use in the EU ETS see <https://ec.europa.eu/clima/news/articles/news_2016110402_en>.

provided a comprehensive table where the differences between its target under the Convention and that under the Kyoto Protocol were explained. Finally, the EU provided extensive information on the MRV framework that underpins its target.

49. The BR2 is the first report submitted by the EU and its member States that extensively addresses the joint 2020 EU target, and it is also the first report under the ESD period of 2013–2020.

50. With regard to the use of units reported in the BR2, no information was provided by the EU as the relevant data on the use of units from MBMs under the EU ETS for the 2013 transactions was only publically available at the installation level in 2016 and the submission of the BR2 was due on 1 January 2016 (see para. 44 above).

51. Because of the EU regulations, the EU was not in a position to report information on the overall use of units from MBMs under the EU ETS (see para. 44 above). The EU stated in its BR2: "Since 2013 it is no longer possible to track the use of flexible mechanisms in the EU ETS directly via information on the EU transaction log (EUTL) public website because certified emission reductions (CERs) and emission reduction units (ERUs) are no longer surrendered directly but are exchanged into European Emission Allowances (EUAs). These exchanges will become public on installation level after three years, with the first information reflecting the use in 2013 available in 2016."

52. The EU and many of its member States (Belgium, Estonia, Finland, Hungary, Latvia, Poland, Portugal, Slovakia, Spain and Sweden) stated in their BR2s: "As the compliance assessment for the first year (2013) under the ESD will only take place in 2016, any potential use of units for 2013 will only take place in 2016. Thus, for the year 2013 no data are currently available to report on."

53. With regard to CTF table 4, the EU reported only its total GHG emissions excluding LULUCF and left all remaining cells on the use of MBMs and on the contribution of the LULUCF sector blank (noting that the LULUCF sector is not included under the EU target under the Convention).

B. Information reported by the European Union member States in the second biennial report

54. Limited information was provided by the member States in their BR2s on their use of units from MBMs under the ESD, as in the situation with the EU ETS, the relevant data were not yet available. With regard to the use of flexible mechanisms under the ESD, many member States reported in their BR2s that the use of units from MBMs could not be quantified at the time of submission of the BR2s. Member States highlighted that this information would become available in 2016 (see para. 52 above).

55. Eleven member States reported that they did not at the time plan to make use of MBMs (see para. 37 above and examples 1 and 2 below).

56. In their BR2s, many EU member States provided extensive, and for the most part streamlined, information on the EU joint target and the underlying architecture (see example 1 below).

Example 1
BR2 of Belgium

Possible scale of contributions of MBMs	*Comment*
Possible scale of contributions of	The 2020 Climate and Energy package allows CERs and ERUs to be used for compliance purposes, subject to a number of restrictions in terms of origin

Possible scale of contributions of MBMs	*Comment*
MBMs under the Convention	and type of project and up to an established limit. In addition, the legislation foresees the possible recognition of units from new market mechanisms. Under the EU ETS, the limit does not exceed 50 per cent of the required reduction below 2005 levels. In the sectors not covered by the ETS, annual use must not exceed 3 per cent of each MS non-ETS GHG emissions in 2005. Belgium may use an additional 1 per cent from projects in LDCs or SIDS, subject to conditions
CERs	The use of these units under the ETS Directive and the Effort-Sharing Decision is subject to the limits specified above which do not distinguish between CERs and ERUs, but include additional criteria for the use of CERs.
ERUs	The use of these units under the ETS Directive and the Effort-Sharing Decision is subject to the limits specified above which do not distinguish between CERs and ERUs, but include additional criteria for the use of CERs.
AAUs	AAUs for the period 2013–2020 have not yet been determined. The EU expects to achieve its –20 per cent target for the period 2013-2020 with the implementation of the ETS Directive and the ESD Decision in the non-ETS sectors, which do not allow the use of AAUs from non-EU Parties.
Carry-over units	At CMP.9, the EU made a declaration, when adopting the Doha amendment to the Kyoto Protocol, that the European Union legislation on 2020 climate and Energy package for the implementation of its emission reduction objectives for the period 2013–2020 does not allow the use of surplus AAUs carried over from the first commitment period to meet these objectives.
Other mechanism units under the Convention	There are general provisions in place in the EU legislation that allow for the use of such units provided that the necessary legal arrangements for the creation of such units have been put in place in the EU which was not the case when this report was provided.
Possible scale of contributions of other MBMs	None. Belgium does not recognize the use of MBMs other than those under the Convention for the achievements of QERTs

57. For the EU ETS target, which is to be achieved by the EU as a whole, almost all of the EU member States referred to the BR2 of the EU for further information (see example 2 below).

Example 2
BR2 of Sweden
"Use of flexible mechanisms takes place by operators in the EU Emissions Trading System (ETS), on the one hand, and by governments, on the other hand, for the achievement of Effort Sharing Decision (ESD) targets. More information on use in the ETS is contained in the second Biennial Report of the European Union."

58. With regard to the use of flexible mechanisms under the ESD, many member States reported in their BR2s that the use of units from MBMs could not be quantified at the time of submission of the BR2s (see paras. 36 and 54 above). Member States highlighted that this information would become available in 2016 (see para. 52 above).

Example 3
BR2 of Romania
"Romania does not plan to use market-based mechanisms under the Convention to achieve the target."

59. No quantitative information was provided by EU member States in CTF table 4 on their use of units from MBMs. A variety of reporting approaches was followed to signal the lack of data, which indicates that further guidance may be needed on reporting information in CTF table 4. The most popular approach was for member States to provide information only on their total GHG emissions while leaving the remainder of the table blank (see example 4 below). The second most popular approach seemed to be for member States to provide information on total GHG emissions and to use the notation key "NA" for all other cells (see example 5 below). Other approaches included using the notation keys "NO" or "NE", using "0" (zero), filling in information only for some years (e.g. 2013 or 2014), or leaving the cells blank and not reporting anything at all.

Example 4
BR2 of Slovenia

Table 4 SVN_BR2_v1.0

Reporting on progress[a, b]

	Total emissions excluding LULUCF	*Contribution from LULUCF*[d]	*Quantity of units from market based mechanisms under the Convention*		*Quantity of units from other market based mechanisms*	
Year[c]	*(kt CO_2 eq)*	*(kt CO_2 eq)*	*(number of units)*	*(kt CO_2 eq)*	*(number of units)*	*(kt CO_2 eq)*
(1990)	18,562.49					
2010	19,493.93					
2011	19,499.83					
2012	18,898.33					
2013	18,165.82					
2014						

Example 5
BR2 of Estonia

Table 4 EST_BR2_v1.0

Reporting on progress[a, b]

	Total emissions excluding LULUCF	*Contribution from LULUCF*[d]	*Quantity of units from market based mechanisms under the Convention*		*Quantity of units from other market based mechanisms*	
Year[c]	*(kt CO_2 eq)*	*(kt CO_2 eq)*	*(number of units)*	*(kt CO_2 eq)*	*(number of units)*	*(kt CO_2 eq)*
(1990)	40,050.52	NA				
2010	19,903.22	NA	NA	NA	NA	NA
2011	20,478.52	NA	NA	NA	NA	NA
2012	19,422.69	NA	NA	NA	NA	NA
2013	21,754.86	NA	NA	NA	NA	NA
2014	NA	NA	NA	NA	NA	NA

60. CTF table 4(b) was either left blank or the member States completed it with the notation key "NA", reflecting that information on the use of MBMs was not available at the time of submission of the BR2 (see paras. 52 and 54 above).