

Emissions Cap and Trade Schemes in Europe, America and Japan

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Baker & McKenzie GJB Tokyo Aoyama
Aoki Koma Law Office
(Gaikokuho Joint Enterprise)
The Prudential Tower, 11th Floor
2-13-10 Nagatacho, Chiyoda-ku
Tokyo 100-0014 Japan
www.bakernet.com

Contact Information

Anne Hung
Tel: +81 3 5157 2710
Fax: +81 3 5157 2906
Anne.Hung@bakernet.com

Paul A. Davis
Tel: +81 3 5157 2711
Fax: +81 3 5157 2906
Paul.Davis@bakernet.com

A. EUROPEAN UNION

	LEGAL POSITION	REFERENCES	COMMENTS
1. Commitment under Kyoto	8% reduction of emissions of greenhouse gases by 2008 to 2012 compared to 1990 levels.	Kyoto Protocol Annex B.	The EU is now committed to reducing its overall emissions to at least 20% below 1990 levels by 2020.
2. Name of allowance	Three types envisaged under the EU Directives: <ul style="list-style-type: none"> - an allowance; - from 2005, a certified emission reduction (CER); and - from 2008, an emission reduction unit (ERU). 	Directive 2003/87/EC for establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (EU 2003 Directive). Directive 2004/101/EC amending EU 2003 Directive (EU 2004 Directive).	Any Member state can issue an allowance provided it is in accordance with the EU Directives.
3. Features of the allowance	Allowance to emit one tonne of carbon dioxide equivalent during a specified period, which shall be valid only for the purposes of meeting the requirements of the 2003 Directive and transferrable in accordance with that directive.	EU 2003 Directive, article 3(a).	Note that "greenhouse gas permits" are also issued but these are not to be confused with an allowance. The permit is to allow a particular installation make emissions and contains an obligation to surrender allowances.
4. Name of market	EU Greenhouse Gas Emissions Trading Scheme (EU ETS)	EU 2003 Directive and EU 2004 Directive.	
5. Legal characteristics	No provision for legal treatment in the EU Directives. For the purpose of financial legislation, some Member States (e.g. Germany, France, Austria, Finland and the United Kingdom) consider allowances to be commodities which do not fall under the responsibility of the financial services authority (FSA). Spot trading of these commodities	European Environment Agency, "Application of the emissions trading directive by EU Member States" (No 2/2006) EEA Technical Report (EEA Technical Report) at Chapter 12.	The legal definition of an allowance has an impact on the applicability of other instruments, for example the financial services regulation if the allowance is considered a financial instrument and the Vienna International Convention of the Sale of Goods if the allowance is considered a commodity or good not otherwise excluded under the Convention, e.g. because it is for personal use..

	LEGAL POSITION	REFERENCES	COMMENTS
	<p>does not fall under the responsibility of the FSA.</p> <p>Futures or other derivatives of these commodities are however regarded as financial instruments and their transactions are supervised by the FSA.</p> <p>In other Member States (e.g. Estonia and Sweden) the allowance itself is considered to be a financial instrument.</p>		<p>In the <i>EEA Technical Report</i>, at 12.3, Austria highlighted the need to harmonise the legal character of the allowance certificates and the fiscal treatment in all Member States across the EU.</p>
6. Title	<p>There is no system to document the title and ownership to Kyoto units and no registry to document third party security rights. It is left to individual countries to devise such a system and as yet this does not appear to have occurred except insofar as countries have registers recording ownership and transfers.</p>	<p>United Nations Industrial Development Organisation, "Negotiating the transfer and acquisition of project based carbon credits under the Kyoto Protocol", Vienna 2007, at 4.2.2.</p>	<p>It appears that although Member states have set up their own registries recording ownership, the fact of registration does not defeat competing claims.</p>
7. Transfer	<p>Member states to ensure that allowances can be transferred between persons within the community and between persons within the community and those from third party countries provided allowances are recognised.</p>	<p>EU 2003 Directive, article 12(1).</p>	

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8. Surrender and cancellation	<p>Each Member state is to ensure that by 30 April of each year, the operator of each installation surrenders a number of allowances equal to total emissions from that installation in the previous calendar year.</p> <p>Surrendered allowances must be cancelled. Other allowances may be voluntarily cancelled at the request of a person holding them.</p>	EU 2003 Directive, articles 12(3) and 12(4).	
9. Register or evidence	<p>Member States shall provide for the establishment and maintenance of registries to account for issue, holding, transfer and cancellation of allowances. Registries shall be accessible to the public and show separate accounts held by each person to whom and from whom allowances are issued or transferred.</p>	EU 2003 Directive, article 19(1).	The registries are electronic and all of them are overseen by a Central Administrator at EU level who, through the Community independent transaction log, will check each transaction for any irregularities.
10. Cross - jurisdiction recognition ("linkage")	<p>Agreements <i>should</i> be concluded with third countries (Annex I parties) who have ratified the Kyoto Protocol to provide for mutual recognition of allowances between the Community scheme and other greenhouse gas emissions trading schemes.</p>	<p>EU 2003 Directive, articles 25 and 11a respectively.</p> <p>EU 2004 Directive, article 6.</p>	The EU is evaluating whether to link the scheme with other Annex I countries such as Japan, Canada and US states. ¹

¹ Dr. Charlotte Streck, "Implementing the Kyoto Protocol: The European Emissions Trading Scheme" (June 2005) *International Environmental Law Committee Newsletter*, Volume 1, Number 1.

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	<p>All CERs and ERUs that are issued and maybe used in accordance with the UNFCC and the Kyoto Protocol and subsequent decisions adopted thereunder may be used in the Community scheme except CERs and ERUs from land use, land use change and forestry activities and those generated from nuclear facilities.</p> <p>An allowance may be issued in exchange for the immediate surrender of a CER or ERU and an allowance issued for exchange will correspond to the CER or ERU.</p>		
<p>11. Access to information</p>	<p>Decisions relating to the allocation of allowances, information on project activities in which a Member State participates or authorizes private or public entities to participate, and reports of emissions required under the greenhouse gas emissions permit and held by the competent authority, shall be made available to the public in accordance with Directive 2003/4/EC (article 17).</p>	<p>EU 2004 Directive, article 17.</p> <p>European Environment Agency, "Application of the emissions trading directive by EU Member States" (No 2/2006) <i>EEA Technical Report (EEA Technical Report)</i> at Chapter 13.</p>	<p>In the <i>EEA Technical Report</i> at Chapter 13, it is stated that 20 member States reported that they publish their national allocation plan, allocation rules and installation on the internet, normally on the website of the competent authority. Two additional countries reported that this information is published in their official journals.</p> <p>Eight countries (Belgium, Denmark, Spain, Estonia, Finland, Hungary, Italy and the Netherlands) publish information about project mechanisms in which a Member State participates or authorises private or public entities to participate on the internet.</p> <p>Of the remaining countries, Austria plans to prepare three-yearly reports. Sweden will only provide the</p>

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			<p>information on request. Other Member States either did not report on information availability or have not yet decided upon access to information concerning project mechanisms.</p> <p>Monitoring reports of installations: These are available upon request in six Member States (Hungary, the Netherlands, Austria, Slovenia, Sweden and the United Kingdom). In Flanders, they are published on the internet and in Spain, regional administrations are responsible for monitoring, and rules governing access to the monitoring reports vary between the regions.</p>
12. Accounting	<p>EU Directive did not prescribe the method for accounting.</p> <p>Allowances regarded as (intangible) assets in Czech Republic, Denmark, Germany, France, Ireland, Italy, Malta and the United Kingdom.</p> <p>Emissions are additionally considered liabilities in Italy and the United Kingdom. The United Kingdom has also stated that their accounting rules will comply with the International Financial Reporting Interpretations Committee (<i>IFRIC</i>) interpretation 3 (see comments).</p>	EEA Technical Report at Chapter 12.	<p>The International Accounting Standards Board is currently developing international standards for accounting for emissions allowances. A draft paper was circulated in 2004 by the IFRIC. The guidance technically complied with other IFRS standards, but it was withdrawn in June 2005 as a result of complaints.</p> <p>One problem was an accounting mismatch between assets and liabilities - allowances to emit a certain amount of carbon dioxide were to be recognised as intangible assets and valued at cost, while actual emissions are treated as liabilities valued at market value the end of compliance period (as the United Kingdom accounts). Therefore at the end of a compliance period, although an entity may have sufficient permits to cover its emissions, if the market</p>

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			value of the permits has risen, this new value will be recorded as a liability and earnings will be recorded as negative.
13. Tax	<p><u>Income tax:</u></p> <p>Five countries (Germany, Denmark, Latvia, Malta and the Netherlands) treat profits and losses from transactions of allowances as subject to income or corporate tax at the respective rates.</p> <p>In Latvia and the UK, no new tax law has been introduced in relation to income or corporate tax specifically to deal with allowances.</p> <p>In the UK, allowances are treated as revenue items for tax purposes. Companies purchasing allowances will receive tax relief on the cost. Any profits from the sale of allowances will be taxed as a part of the company's trading profits.</p> <p><u>Value Added Tax (VAT):</u></p> <p>In France, Germany, Latvia, Finland, and the UK all transactions of allowances have been regarded a supply of services and are subject to VAT except for issuances of allowances which is free of charge.</p>	EEA Technical Report at Chapter 12.	The VAT treatment is similar to the expected GST treatment under the proposed Australian laws.

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	<p><u>Stamp duty:</u></p> <p>The UK has stated that stamp duty will not apply.</p>		
<p>14. International trade issues</p>	<p>The EU Directives do not deal with international trade or competition issues.</p>	<p>EEA Technical Report at Chapter 12.</p>	<p>In the <i>EEA Technical Report</i>, it is reported that Member States have proposed increased harmonization on several matters. This is largely to avoid distortions of competition due to differences in local implementation of the EU Directives. The suggested changes were largely about allocations for installations, definitions of particular installations and how verification is conducted.</p> <p>The application of the Vienna Convention on the Sale of Goods (CISG) would depend on whether the Member state was a party to CISG and CISG was not excluded by the parties. It would also depend on whether the legal description of the allowance within the relevant jurisdiction came within the meaning of a “good” under CISG. At least for those Member states where the allowances have been described as financial products, this seems unlikely.</p>

B. UNITED STATES OF AMERICA – ACID RAIN PROGRAM

	LEGAL POSITION	REFERENCES	COMMENTS
1. Commitment under Kyoto	Not a party.	See Gehring and Seek, Note 2.	<p>The USA is not a party to the Kyoto Protocol. It does, however, have a cap and trade system for sulfur dioxide (SO₂) emissions. These are considered as some commentators believe that the treatment of these allowances would be similar to how carbon credits would be treated if the USA does implement an emissions trading scheme.²</p> <p>The US has also proposed the Boxer-Lieberman-Warner America's Climate Security Act of 2007 but this has not yet been passed.</p>
2. Name of allowance	An Allowance.	<p><i>Title IV of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, 104 Stat. 2399 (1990) (CAA).</i></p> <p>See also, the Environmental Protection Agency's (EPA) website: http://www.epa.gov/airmarkets/</p>	Colloquially referred to as an Acid Rain Allowance.
3. Features of the allowance	A limited authorization to emit one tonne of sulfur dioxide.	CCA, sections 403(f) 403(g) and 411.	Similar to the Kyoto Protocol, the CAA sets up a limited number of sulfur dioxide allowances and allots them to various entities. These entities can emit

² See M. W. Gehring and C. Seek, "Emissions Trading: Lessons from So_x and No_x Emissions Allowance and Credit Systems Legal Nature, Title Transfer, and Taxation of Emission Allowances and credits", *Environmental Law Institute News & Analysis*, (2005), Washington DC, <http://www.eli.org>.

	LEGAL POSITION	REFERENCES	COMMENTS
	Penalties apply for any SO ₂ emitted in excess of the allowances held.		more or less SO ₂ than their allocation but if an entity emits more, it must buy the difference from an entity that has emitted less and has allowances to sell.
4. Name of market	US Sulfur Allowance Trading Program		
5. Legal characteristics	<p>Explicitly denied the character of a property right.</p> <p>Fails to define comprehensively the nature of the emission allowance.</p> <p>But, <i>Ormet Corp.</i> decided that an allowance is a defacto property right because:</p> <ul style="list-style-type: none"> - they “may be bought and sold as any other commodity”; - between contracting parties, the statute allows transfer recognizing the ability to hold or possess and transfer or alienate allowances. 	<p>CAA, section 403(f).</p> <p><i>Ormet Corp. v. Ohio Power Co.</i> 98 F.3d 799, 27 ELR 20302 (4th Cir. 1996)</p>	<p>Two possible reasons have been suggested for the denial of a property right. The first is that US Congress was reacting against moral concerns about giving a person the right to pollute. The other reason is that a property right vis a vis the US government may mean that the US government has to give just compensation if it wishes to cancel the allowance due to the Fifth Amendment of the US Constitution.³</p>

³ See M. W. Gehring and C. Seek, Note 2 above.

	LEGAL POSITION	REFERENCES	COMMENTS
	However a party cannot assert property rights against the government.		
6. Title	Although the allowance is not a property right, it has the qualities of ownership in the sense that, except for against the federal government, the allowance holder can exclude all others from the usus, fructus and abusus of his or her allowances.	See comments in Gehring Seek article, footnote 2.	
7. Transfer	Allowances, once allocated to a person by the Administrator, may be received, held and temporarily or permanently transferred.	CAA, section 403(f).	
8. Surrender and cancellation	<p>After the yearly deadline (1 March) and the final submitted transfers are recorded, the US EPA deducts allowances from each sources compliance account in an amount equal to its SO₂ emissions for that year. If the sources's emissions do not exceed its allowances, the remaining allowances are carried forward, or banked for future use.</p> <p>Nothing in the subchapter or in any other provision of law shall be construed as to limit the authority of the United States to terminate or limit the allowances.</p>	EPA website and CAA, section 403(f).	
9. Register or evidence	Transfers of allowances shall not be effective until written certification of the transfer, signed by a responsible official of each party to the transfer, is received and recorded by the Administrator.	CAA, section 403(b) and EPA website.	The EPA maintains an Allowance Management System (AMS). AMS accounts are the official records for allowance holdings and transfers used for compliance purposes.
10. Cross - jurisdiction	Not applicable.		

	LEGAL POSITION	REFERENCES	COMMENTS
recognition (“linkage”)			
11. Access to information	Parties must notify the EPA to have transfers recorded in their AMS account, but it is not necessary to record all transfers with EPA until such time that the allowances are to be used to meet a source’s SO ₂ emissions limitation requirement. To facilitate tracking and recording, EPA assigns every account an identification number and every allowance a serial number.	EPA Website	
12. Accounting	No unified accounting standard. In general, an asset will be booked at the price paid for it.		It has been suggested by PWC that emissions allowances meet the definition of intangible assets as defined by FASB Statement of Financial Accounting Standards (<i>FAS</i>) and would be treated as such should a carbon emissions trading scheme be entered into by the US. ⁴
13. Tax	<u>Income tax:</u> If a SO ₂ allowance is allotted to an entity, this does not represent income to the entity. A subsequent transfer will be treated as capital or income depending on the reason it is held or sold. If it is held “primarily for sale to customers in the ordinary course or business of dealing in allowances” then any proceeds from the sale will be income taxable	Rev. Rul. 92-16, 1992-1 CB 15; Code Sec 1221(a)(1). For an in depth discussion about these possible tax implications and also the potential application of foreign base company sales income rules see: Lemein, Lipeles and McDonald, “Kyoto Meets Subpart F: U.S. and Foreign Tax	Note that, in the case of ordinary loss and income treatment, there may be a distinction between the requirement “primarily for sale to customers in the ordinary course or business of dealing with allowances” and calling the allowances “inventory” or “stock in trade”. This distinction is important and relevant in determining whether a gain from a sale of a SO ₂ allowance is taxable under the foreign personal holding company income rules (<i>FPHCI</i>). Broadly, ordinary income will be income under FPHCI if the income is made from <i>trading</i> rather than <i>dealing</i> . A

⁴ PricewaterhouseCoopers, “How your company can prepare to manage carbon as an asset”, *PricewaterhouseCoopers June 2008*.

	LEGAL POSITION	REFERENCES	COMMENTS
	in the hands of the seller. Otherwise, the allowance will be treated as a capital asset which cannot be amortised or depreciated and will begin with a cost base of zero when issued.	Implications of Structuring Global Emissions Trading" (March, 2007) <i>International Tax Watch, The Tax Magazine.</i>	<p>trader makes income from buying and/or selling property on a market and relying on market fluctuations to make a profit. A dealer, on the other hand, deals <i>to customers</i> and provides some service in doing so. Thus inventory and stock can be traded or dealt whereas the allowances can only be dealt as they are held primarily for the sale <i>to customers</i> (unless they are capital and excluded in any case).</p> <p>It is not known whether these rules would apply equally to Kyoto Units however the Internal Revenue Service has applied the Ruling to analogous situations such as the creation of mitigation credits resulting from the set-aside of wetlands.</p>
14. International trade issues	Not applicable.		

C. JAPAN

	DESCRIPTION	REFERENCES	COMMENTS
1. Commitment under Kyoto	6% reduction of emissions of greenhouse gases from the base year level in the first commitment period (2008-2012).	<i>Kyoto Protocol</i> , Annex B.	Japan is proposing the target of cutting global greenhouse gas emissions by half from the current level by 2050 as part of the “Cool Earth 50” initiative which it announced in May 2007.
2. Name of allowance	<p>Kyoto mechanism credits (AAU, ERU, CER, RMU) and emission credits used for JVETS (e.g. JPAs and jCERs).</p> <p>Allowances issued under the Experimental Emissions Trading Scheme (EXTs, but often given their Kyoto or JVETS name).</p> <p>Credits issued from activities of non-binding schemes and energy efficiency credits for small and medium-sized enterprises.</p>	<p><i>Outline of Carbon Offsetting</i> published by Ministry of the Environment 19 February, 2009 (http://www.env.go.jp/en/earth/ets/mkt_mech/outline_co.pdf)</p>	
3. Features of the allowance	<p>Japan has several programs to support the reduction of greenhouse gases.</p> <p>1. The Liaison Committee for Utilization of the Kyoto Mechanisms makes decisions dealing with approvals by Japan of projects that relate to JI and CDM under the Kyoto Protocol.</p>	<p><i>Guidelines for Approval of Projects Relating to Joint Implementation and the Clean Development Mechanism</i> published by the Ministry of Environment 18 October, 2002 (http://www.env.go.jp/en/earth/cc/021016.html)</p> <p><i>Japan's Voluntary Emissions Trading Scheme (JVETS)</i> published by the Ministry of the Environment on March 19,</p>	<p>Japan's Ministry of the Environment also established a carbon offsetting credit system (J-VER) in February 2008 and established a Japan Carbon Offset Forum in April 2008, but this system is NOT accepted for emissions trading at this time and guidelines are currently being developed.</p> <p>In general, participants in the schemes voluntarily set their own goals. However, the Tokyo ETS will introduce a mandatory 8% or a 6% reduction</p>

	DESCRIPTION	REFERENCES	COMMENTS
	<p>2. Japan's Voluntary Emissions Trading Scheme (JVETS) was begun in 2005. JVETS is a domestic program which supports voluntary CO2 reduction activities by business operators by using: (1) a subsidy to facilities; (2) participants' commitments to reduce CO2 emissions below their base year emissions; and (3) emissions trading. JVETS preceded and led to the new trial EETS scheme.</p> <p>3. An Experimental Emissions Trading Scheme (EETS) was established by the Ministry of Environment in October 2008. This scheme encourages participant firms to set emission reduction targets and achieve them and, if necessary, allows them to trade domestic CDM credits and Kyoto mechanism credits. This scheme will incorporate JVETS.</p> <p>4. The Tokyo Metropolitan Government Emissions Trading Scheme (Tokyo ETS) will implement mandatory cap and trade requirements for Tokyo businesses in all sectors from April 2010.</p>	<p>2009 (http://www.env.go.jp/en/earth/ets/jvets090319.pdf)</p> <p><i>Experimental introduction of an integrated domestic market for emissions trading</i> Global Warming Prevention Headquarters' Decision on October 21, 2008 (http://www.env.go.jp/en/earth/ets/idmets081021.pdf)</p> <p><i>Offsetting Credit (J-VER)</i> published by the Ministry of Environment April 17, 2009 (http://www.env.go.jp/en/earth/ets/mkt_mech/outline_co.pdf)</p>	(depending on classification) from average annual emission levels over any 3-year period from 2002-2007.
5. Name of market	Experimental Emissions Trading Scheme (which integrates and expands on JVETS)	<i>Kyoto Protocol Target Achievement Plan</i> (Cabinet Decision, March. 28, 2008) (http://www.env.go.jp/en/earth/ets/mkt_mech/outline-ets.pdf)	The scheme was introduced in a speech by Prime Minister Yasuo Fukuda on 9 June 2008 and formally established by Cabinet Decision on 29 July 2008.

	DESCRIPTION	REFERENCES	COMMENTS
		<p><i>Action Plan for Achieving a Low-Carbon Society</i> (Cabinet Decision 29 July 2008) (http://www.env.go.jp/en/earth/ets/mkt_mech/outline-ets.pdf)</p> <p><i>Outline of Emissions Trading Scheme</i> published by Ministry of Environment 9 April 2009 (http://www.env.go.jp/en/earth/ets/mkt_mech/outline-ets.pdf)</p>	Participants were invited to join the scheme between October and December 2008. There are approximately 550 participants at present. The deadline for participants to submit their monitoring reports on CO2 emissions for FY 2008 is 31 August 2009. The deadline for participants to verify their monitoring reports will be in mid-October 2009.
6. Legal characteristics	The EETS is an integrated domestic market for emissions trading, which allows participating entities to use domestic CDM credits, Kyoto Mechanism credits and other small and medium-sized participants' allowances.	<i>Experimental introduction of an integrated domestic market for emissions trading (Annex 1)</i> Global Warming Prevention Headquarters' Decision on October 21, 2008 (http://www.env.go.jp/en/earth/ets/idmets081021.pdf)	Precise legal characteristics of the allowances/credits which may be transferred under the EETS are not yet clear.
7. Title	<p>The Minister of the Environment and the Minister of Economy, Trade and Industry shall open Management Accounts for the acquisition, holding, and transferal of carbon dioxide equivalent quotas and shall prepare a quota account inventory in accordance with international decisions regarding the calculation of quotas pursuant to Article 7, No. 4 of the Kyoto Protocol.</p> <p>The Minister of the Environment and the Minister of Economy, Trade and Industry shall handle the acquisition and transfer of carbon dioxide equivalent quotas by recording increases and decreases to and from the carbon dioxide equivalent quotas in</p>	地球温暖化対策の推進に関する法律("Act on Promotion of Global Warming Countermeasures"), Act No. 117 of October 9, 1998, Arts. 29, 34	

	DESCRIPTION	REFERENCES	COMMENTS
	the quota account inventory.		
8. Transfer	<p>Allowances can be freely traded by the participants in the market and will be transferred among trading parties' accounts.</p> <p>Settlement is completed by an emissions allowance transaction (a JVETS feature which will be incorporated in the new scheme). Transactions are available on request between 10am-6pm (JST) on business days.</p>	<p><i>Consideration on Emissions Trading Scheme in Japan</i> published by the Ministry of Environment 9 April 2009 (http://www.env.go.jp/en/earth/ets/mkt_mech/outline-ets.pdf)</p> <p><i>Experimental introduction of an integrated domestic market for emissions trading (Annex 1)</i> Global Warming Prevention Headquarters' Decision October 21, 2008 (http://www.env.go.jp/en/earth/ets/idmets081021.pdf)</p>	To prevent 'easy overselling', participant firms which received allowances in advance are not permitted to trade 90% of the initially-allocated allowances before their retirement.
9. Banking	Banking and borrowing of emission allowances are permitted for participants with multiple target years.	<i>Experimental introduction of an integrated domestic market for emissions trading (Annex 1)</i> Global Warming Prevention Headquarters' Decision on October 21, 2008 (http://www.env.go.jp/en/earth/ets/idmets081021.pdf)	This measure has apparently been introduced to prevent "money game" problems. The government notes that it will also consider and implement measures to prevent a sudden rise of price caused by over-speculation.
10. Surrender and cancellation	The retirement or cancellation of credits is conducted by individuals/businesses and offset providers after a certain period of time. The retirement or cancellation should be completed just after the occurrence of emissions from activities or from using offsetting products or services, but for the time being, this could take 6 to 12 months	<i>Establishing Guidelines for Carbon Offsetting in Japan</i> Public Consultation on Draft Guidelines published by Ministry of Environment October 2007 (http://www.env.go.jp/earth/ondanka/mechanism/carbon_offset/pamph1/full.pdf)	

	DESCRIPTION	REFERENCES	COMMENTS
	due to the limitation of credits in Japan.		
11. Register or evidence	<p>Minister of the Environment and Minister of Economy, Trade and Industry establishes the Japanese National Registry and maintain its accounts for acquisition, holding and transfer of Kyoto credits (available at: http://www.registry.go.jp/index_e.html).</p> <p>Acquisition and transfer of the credits are officially accepted once they are recorded in the national registry.</p> <p>The law provides that a Japanese corporation that wishes to conduct carbon dioxide equivalent quota management must have a 'Management Account' opened by the Minister of the Environment and the Minister of Economy, Trade and Industry.</p> <p>For the EETS, participants with targets who are willing to transact their allowances are required to open their own accounts under the systems operated by the Japanese government. Participants with their own targets who are unwilling to transact their allowances do not have to open accounts.</p>	<p><i>Experimental introduction of an integrated domestic market for emissions trading (Annex 1) Global Warming Prevention Headquarters' Decision on October 21, 2008 (http://www.env.go.jp/en/earth/ets/idmets081021.pdf)</i></p> <p>地球温暖化対策の推進に関する法律 ("Act on Promotion of Global Warming Countermeasures"), Act No. 117 of October 9, 1998, Art. 32</p>	<p>Transfer of the credits to other national registries shall take into effect only when the receipt of such transfer is received by the Japanese national registry. The government and private entity are assumed to hold the amount of the credits recorded by the national registry.</p> <p>No double counting in EETS and the same security level of allowance retirement as the national registry in Kyoto Protocol.</p>
12. Cross - jurisdiction recognition ("linkage")	Kyoto mechanism credits are incorporated in the EETS.		
13. Access to information	Open access to the web-based registry system is for all participants and there are	<i>Japan's Voluntary Emissions Trading Scheme (JVETS) published by the</i>	This information is only available in Japanese.

	DESCRIPTION	REFERENCES	COMMENTS
	opportunities for the participants to find their trading counterparts through the Internet.	Ministry of the Environment on March 19, 2009 (http://www.env.go.jp/en/earth/ets/jvets090319.pdf)	
14. Accounting	The Ministry of Environment has published Environmental Accounting Guidelines and the National Tax Agency has issued guidance on accounting procedures for emissions allowances and credits.	<i>Tax treatment of emission allowance trading</i> by Takisaki Akio in "International Tax Review" July/August 2009	Accounting and tax rules are to a large extent already streamlined by the existing standards that contemplate Kyoto credits. Appropriate action is necessary, however, using actual cases of JVETs as a reference and taking into consideration the international discussions at the IASB (International Accounting Standards Board) and other forums.
15. Tax	<p>a) <u>Corporate tax treatment</u> The transfer of emission allowances by a domestic company to the national registry for their own redemption purposes is tax deductible.</p> <p>b) <u>Consumption tax treatment</u> An emission allowance should be categorized as an intangible asset for Japanese consumption tax purposes.</p>	<i>Tax treatment of emission allowance trading</i> by Takisaki Akio in "International Tax Review" July/August 2009	
16. International trade issues	The Japanese schemes do not deal with international trade or competition issues.		The Japanese government encourages increased harmonization on the international trade of emissions credits and allowances.

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