

AGREEMENT

between

the Swiss Confederation,

represented by

the **Federal Department of the Environment,
Transport, Energy and Communications (Etec)**

3003 Berne

and

the **Climate Cent Foundation (Foundation)**

Freiestrasse 167

8032 Zurich

regarding the

Climate Cent

Preamble

With the ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto Protocol, SR 0814.011), the Swiss Confederation has committed to climate protection at an international level. At the national level, in accordance with the Swiss CO₂ Law (SR 641.71), CO₂ emissions stemming from the use of fossil fuels must be reduced by 10% overall compared to their 1990 level by 2010. The reduction target should primarily be achieved with measures in the fields of energy, transport, environmental and fiscal policy, as well as with voluntary measures.

Emissions prognoses for the commitment period 2008-2012 scheduled by the Kyoto Protocol show that the reduction target of the Swiss CO₂ Law will not be achieved with these measures. The Swiss Federal Council has therefore submitted to consultation four options of measures aimed at closing the gap in emissions reductions. Based on the results of the consultation, it decided on 23 March 2005 to introduce a carbon tax on combustibles at a rate of 35 Swiss Francs per ton of CO₂. The introduction of a carbon tax on fuels has been deferred for the time being. The climate cent is given the opportunity to prove its effectiveness within a limited period of time. The Swiss Federal Council considers the climate cent to be in the public interest, and thus a justified cartel agreement.

The climate cent is an instrument suggested by the Swiss industry to fund climate protection projects in Switzerland and abroad using the Foundation's revenue stemming from a voluntary charge levied on petrol and diesel oil. Emissions reductions achieved with voluntary measures shall thus make a contribution to closing the gap in emissions reductions. On 23 March 2005, the Swiss Federal Council decided to also introduce a carbon tax on fuels if the climate cent proved incapable of ensuring this impact within the commitment period scheduled by the Kyoto Protocol. It confirmed this decision in a message adopted on 22 June 2005, recommending the approval of the carbon tax rate applied to combustibles (BBl 2005 4885).

1. Object of the agreement

This agreement regulates the relationship between the Swiss Confederation and the Foundation as regards the climate cent's contribution to the fulfilment of the Swiss reduction target. In particular, it establishes the modalities governing the substantiation of the climate cent's impact.

2. Duties of the Foundation

2.1 Reduction of CO₂ emissions 2008-2012

2.1.1 Total reduction

The Foundation commits to reducing overall CO₂ emissions by a minimum of 1.8 million tons on average over the years 2008-2012.

2.1.2 Reduction in Switzerland

Of the emissions reductions volume of 1.8 million tons CO₂, at least 0.2 million tons must be achieved with projects in Switzerland. In this context, special consideration shall be given to projects in the fields of mobility, the building sector and waste heat. The decision on imputability lies with the Swiss Federal Office of Energy (SFOE), which shall base itself on the provisions of Annex 1.

2.1.3 Reduction abroad

The volume of imputable emissions reductions achieved with projects abroad is limited. The decision on imputability lies with the Swiss Agency for the Environment, Forests and Landscape (SAEFL), which shall base itself on the provisions of the Decree on the crediting of emissions reductions achieved abroad. Until its entry into force on 1 January 2006, the provisions of Annex 2 apply.

2.1.4 Delimitations

The Swiss Confederation is responsible for emissions reductions achieved by measures it has put into effect itself. This applies specifically to the carbon tax on combustibles, to the amendment of the Law on the taxation of mineral oils, aimed at encouraging the use of natural gas as a fuel and bio fuels, as well as to the amendment of the Law on the taxation of automobile vehicles, designed to encourage energy efficient and environmentally sound vehicles via a bonus/malus system.

The agreed overall reduction volume is not affected by the crediting of emissions reductions abroad to third parties by the SAEFL. Reductions credited to third parties must be compensated by the Foundation with reductions within Switzerland. The difference in cost between projects in Switzerland and projects abroad shall be given due consideration. The contracting parties jointly establish the required volume of reductions.

2.2 Adherence to project principles

2.2.1 Continuity

The Foundation supports the emissions reductions projects it has selected for the entire duration, specified in the business plan (see point 2.4).

2.2.2 Additionality

Only the additional impact of projects selected by the Foundation is imputable. This applies in particular to projects in fields funded by SwissEnergy and by the cantons.

2.2.3 Coordination

Projects selected by the Foundation must be coordinated with the strategies and the projects of SwissEnergy and of the cantons.

2.3 Cooperation

In order to ensure project coordination, the Foundation's representatives take part in the "Climate cent coordination group" set up by the SFOE and the SAEFL.

2.4 Accomplishment of milestones

Mile-stone	Deadline	Activity
M1	31 January 2006	The Foundation submits to the ETEC the provisional business plan laying out the realisation of emissions reductions to be achieved by the climate cent for the period 2008-2012. As far as possible, the business plan encompasses the points listed in Annex 3, but it must at least include: <ul style="list-style-type: none">- the requirements for projects which the Foundation plans to support;- a suggestion as to how evidence of the acquisition of foreign certificates can be provided.
M2	1 March 2006	The SFOE and the SAEFL provide feedback on the provisional business plan. The Foundation revises the provisional business plan in light of this feedback.
M3	31 December 2006	The Foundation submits to the ETEC the draft of the definitive business plan.

M4	30 June 2007	<p>The Foundation submits to the ETEC:</p> <ul style="list-style-type: none"> - the revised, definitive business plan; - the impact analysis of measures implemented up to this point; - the annual report for the year 2006.
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2.5 Impact analyses

The Foundation submits a yearly impact analysis of its projects to the ETEC.

The Foundation commits to fixing the details of the impact analysis (methods, procedures, presentation etc.) jointly with the ETEC. It may seek the assistance of third parties.

The impact analysis is due for the first time by 30 June 2007 (see point 2.4, M4). Subsequent impact analyses follow the deadlines set by SwissEnergy's manual of procedures. They are drawn up and published in parallel with those of SwissEnergy.

2.6 Annual reports

Every year, the Foundation submits an annual report to the ETEC. Its contents follow the provisions of Annex 4, the quantitative assessment of target achievement not being required for the year 2006.

The annual report is due for the first time by 30 June 2007 (see point 2.4, M4). Subsequent annual reports follow the deadlines set by SwissEnergy's manual of procedures.

The ETEC is entitled to publish the annual reports.

3. Duties of the Swiss Confederation

3.1 Deferral of the carbon tax on fuels

The Swiss Confederation commits to deferring the decision regarding the introduction of a carbon tax on fuels to 30 June 2007 (see point 2.4, M4). It reserves the right to a decision made necessary by political developments (e.g. parliamentary initiatives) which lie outside the ETEC's sphere of influence.

3.2 Decision regarding further proceedings

After 30 June 2007, the ETEC will decide whether the climate cent is capable of achieving the required contribution to closing the gap in emissions reductions. The decision takes into account the documents listed under point 2.4, M4, i.e.:

- the definitive business plan;
- the impact analysis;
- the annual report 2006.

4. Final provisions

4.1 Costs

The Foundation pays the ETEC a yearly lump sum. This amount covers the additional costs incurred by the ETEC in coordinating the Foundation's projects with those of SwissEnergy and the cantons (see points 2.2.3 and 2.3).

The payment is due for the first time for the year 2006 and amounts to CHF 220'000.-. For subsequent years, the lump sum is adjusted jointly on a yearly basis by the contracting parties, on the basis of the ETEC's documented expenditure during the preceding year.

4.2 Confidentiality

The text of this agreement is publicly available.

The contracting parties shall hold in strict confidence all facts relating to the fulfilment of this contract which are neither common knowledge nor publicly available. They come to an agreement on the respective publication of information. The confidentiality clause shall already come into force before the signing of the agreement and shall survive the cessation of the contractual relationship. Legal duties of disclosure, in particular as a result of the Law on transparency which will come into effect on 1 January 2006, are reserved.

4.3 Amendment of the agreement

Amendments to the agreement require the written form. They shall be laid down by the contracting parties in an addendum to this agreement.

Should the framework conditions change significantly, the agreement shall be adjusted. In particular, a significant change is given if parliamentary decisions prompt the Swiss Federal Council to fundamentally revise its decision regarding the achievement of the objectives of the CO₂ legislation.

4.4 Duration of the agreement

This agreement enters into force when signed by both parties and lasts until 31 December 2012.

4.5 Termination

4.5.1 Form

This agreement may be terminated by both parties in writing.

4.5.2 Notice

The termination is receivable for the first time for 31 December 2007, subject to 3 months notice.

Later cancellations respectively take place for 31 December of the following year, subject to 6 months notice.

4.6 Applicable legislation and disputes

The dispositions of the Swiss Code of Obligations apply analogously.

In the case of disputes in connection with this agreement, the General Secretary of the ETEC settles the difference.

5. Annexes

The agreement takes precedence over the annexes. The annexes form an integral part of the agreement.

Annex 1 Procedure of imputation for emissions reductions in Switzerland

Annex 2 Procedure of imputation for emissions reductions abroad

Annex 3 Principles of the business plan

Annex 4 Content of the annual reports

Berne, 30 August 2005

Swiss Confederation,
represented by the
**Federal Department of the Environment,
Transport, Energy und Communications
(ETEC)**

Climate Cent Foundation

Moritz Leuenberger
Federal Councillor

David Syz
President

Ronald Ganz
Vice President

Procedure of imputation for emissions reductions in Switzerland

1. The model of the impact analysis must be disclosed in a transparent manner and agreed upon with the "Climate cent coordination group". Only effects confirmed quantitatively shall be included in the impact model. Furthermore, only the present impact of a measure shall be taken into account. Additionally, the long-term impact may be shown.
2. The impact analysis must be able to separate the impact of legal measures effective at the time of the agreement's entry into force or applicable at a future date (e.g. bonus/malus system) from the impact of the implemented measure. It must also be able to break down the common impact of two measures, i.e. the long-term impact of each measure must be displayed separately.
3. With the SFOE's approval, the Foundation commissions independent evaluations of selected projects, with the goal of identifying the individual effects of the measures. The SFOE oversees the evaluation. The approval must be granted at least 10 months before publication of the results of the impact analysis.
4. Projects which affect or amplify the impact of SwissEnergy projects must be evaluated anew, as the expected impact of committing additional means is likely not to follow a linear path.
5. In consultation with the "Climate cent coordination group", the Foundation ensures that monitoring of emission reductions is in place for each measure.
6. The Foundation bears the costs of the impact analysis, the evaluation and the monitoring.

Procedure of imputation for emissions reductions abroad

Art. 1 Object

This annex regulates the imputation of emissions reductions achieved abroad towards the reduction target of the Swiss CO₂ Law.

Art. 2 Definitions

¹ CO₂ emissions reductions achieved abroad are:

- a. attestations, established in the form of certificates, of emissions reductions achieved abroad in accordance with Articles 6 and 12 of the Kyoto Protocol;
- b. permits issued abroad giving the right to emit a certain quantity of CO₂ (emissions permits), insofar as these permits have been issued in States having enacted similar regulations for emissions trading.

² A ton of carbon dioxide equivalent (tCO₂eq) is a metric ton of carbon dioxide or a quantity of another greenhouse gas itemised in Annex A of the Kyoto Protocol displaying an equivalent potential for global warming.

Art. 3 Imputation procedure

¹ If the Foundation wishes to credit emissions reductions achieved abroad towards the reduction target in accordance with Article 2 of the law, it must submit a request to the SAEFL.

² The SAEFL examines the request and decides upon the imputation.

Art. 4 Projects in accordance with Article 12 of the Kyoto Protocol

¹ Emissions reductions achieved with projects in accordance with Article 12 of the Kyoto Protocol must be validated, verified and certified by a specially accredited private control organ.

² For afforestation and reforestation projects, the SAEFL may at any time request an appropriate guaranty in view of the risk of the project's loss of efficiency.

³ Afforestation and reforestation projects which make use of genetically modified or foreign vegetable material are excluded from imputation.

Art. 5 Volume of imputable emissions reductions

When computing emissions in accordance with the law, emissions reductions achieved abroad may be credited towards the reduction target up to a total maximum of 1.6 million tCO₂eq per year as an average of the years 2008-2012.

Principles of the business plan

The business plan must at least comprise the following elements:

1. A list of selected projects.
2. The expected CO₂ reduction impact of these projects for the period 2008-2012. The following points must be considered:
 - All available information must be included in the computation.
 - The additionality of projects (see point 2.2.2 of the Agreement) must be demonstrated.
 - For projects whose implementation dates back one year or less, the impact mechanism must be presented in a transparent manner. The impact's dynamic must also be described and the impact clearly estimated quantitatively ex ante using an impact model.
 - If necessary, the SFOE can assist the Foundation with the formulation of an impact model. As regards costs, the contracting parties come to an agreement on a case by case basis.
3. A description of the method used for the ex post measurement of impact.
4. The volume of the Foundation's financial support for each project, including funds transferred.
5. Evidence of the acquisition of foreign certificates. This can take the form of receipts for project funding, shares in funds and expected pro rata certificates, concluded forward transactions or contracts for the purchase of certificates (Emission Reduction Purchase Agreements), acquired purchase options, certificates registered on the Climate Cent Foundation's account with the national register.

Content of the annual reports

CONTENT ANNUAL REPORT MARKET SECTORS	
Elements	Concretisation
Summary of results	<ul style="list-style-type: none"> • Summarising assessment of target achievement • Explanation of discrepancies (problem analysis); planned amendments • Outlook regarding priorities for the subsequent year
Quantitative assessment of target achievement	<ul style="list-style-type: none"> • Quantitative (GWh, l oil) and qualitative assessment of target achievement (target-actual comparison) • Appraisal of target achievement • Specification of goods and services provided and demand registered using the indicators defined in the target and annual agreements • Quantitative assessment of the achievement of performance and marketing targets: target-actual comparison on the basis of the contractually agreed targets
Assessment of activities	<ul style="list-style-type: none"> • Presentation or listing of the main activities of the year under review • Qualitative appraisal of activities: successes, difficulties, benefit, innovations • Means deployed (funds, staff) • Cost/benefit comparison: federal means or means of the Confederation and the cantons, as well as totality of means deployed per saved or produced kWh
Outlook	<ul style="list-style-type: none"> • Future priorities of market sector and designated means
Contact/Sources	<ul style="list-style-type: none"> • Address, Telephone, Fax, Email, Organisation and Contact person • List of reference sources

(Table taken from point 4.8 of SwissEnergy's manual of procedures, dated 15.12.2004).