

PRESS RELEASE

21 July 2011

Steel industry lodges claims against additional costs in emissions trading

Düsseldorf, 21 July 2011 – The German and European steel industry lodged claims today with the European General Court in Luxembourg against additional costs in European emissions trading. The two claims oppose the decision that was passed by the European Commission at the end of April regarding the rules on the free allocation of emission allowances. The steel industry, which is represented by Luther Rechtsanwaltsgesellschaft mbH, also applied for an injunction to stop the current preparations for the allocation of free allowances in all 27 Member States of the EU.

The German steel companies ThyssenKrupp Steel Europe AG, Salzgitter Flachstahl GmbH, Hüttenwerke Krupp Mannesmann GmbH, ROGESA Roheisengesellschaft Saar mbH as a joint subsidiary of Aktien-Gesellschaft der Dillinger Hüttenwerke and Saarstahl AG together with the Austrian company voestalpine AG and also the European Confederation of Iron and Steel Industries (EUROFER) have instructed Luther to lodge claims. They oppose the rules stipulated by the European Commission for the free allocation of emission allowances for the years 2013 to 2020. The European steel industry risks incurring additional costs of up to EUR 600m per annum. In addition, it claims that the European Commission partly set benchmark values which cannot be achieved even with the best available technique.

Dr Stefan Altenschmidt, who is an expert for environmental law and Partner of Luther, said: “The European Commission failed to sufficiently

take into consideration the special situation in the steel industry when stipulating its new climate protection requirements and unjustly reduced the free emission allowances for the integrated steel works. The CO₂ emissions produced during the manufacture of steel are for the most part inevitable from a technical perspective.”

From a legal perspective, the steel industry’s claims are based on the requirements set out in the European Emissions Trading Directive. In 2009, the European Parliament insisted that this Directive be supplemented with a special passage that was meant to exonerate the emissions resulting from the technically inevitable waste gases that are generated as by-products during production. The steel industry argues that the European Commission has disregarded this exoneration clause and, therefore, acted against the European Parliament’s wishes in determining technical benchmarks for steel works and blast furnaces.

“The steel industry is not against emissions trading as such. In fact, the industry has in the past supported climate protection by modernising its plants on an on-going basis and participating in emissions trading. The European Commission is not authorised, however, to impose additional restrictions on the steel industry without the appropriate legal basis. As the Commission has not reconsidered its position despite numerous talks, the only option left is to turn to the courts,” said Dr Stefan Altschmidt by way of explanation as to why legal action has been brought.

At the same time that the claims were lodged, Luther also applied to the European General Court in Luxembourg on behalf of the steel industry for an injunction to stop the preparations which are currently being made in all 27 Member States of the EU for the allocation of free emission allowances. This would affect not only the steel industry, but also all other industries participating in emissions trading.

Carolin Dittrich from Luther added: “The immediate stop of the current preparations for allocation is necessary, as this is the only way to ensure that the steel industry will actually be able to obtain additional emission allowances after successful court proceedings in Luxembourg. If the allowances were allocated now, there would – due to the fixed

CO₂ cap – be nothing left to allocate after the Court's decision has been made, which is expected to take several months.”

On behalf of the steel industry

Luther Rechtsanwaltsgesellschaft mbH, Düsseldorf: Dr Stefan Altenschmidt, LL.M. (Partner), Carolin Dittrich, LL.M. (both Environment, Planning, Regulatory)

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Brief Profile of Luther Rechtsanwaltsgesellschaft mbH

Luther is one of the leading German commercial law firms providing comprehensive services in all the relevant fields of legal and tax consulting. The full-service law firm employs more than 320 lawyers and tax advisors and is represented at 12 German economic centres and at important investment locations and centres of finance in Europe and Asia. It has international offices in Brussels, Budapest, Istanbul, Luxembourg, Shanghai and Singapore. Our clients include medium-sized enterprises and large corporations, as well as the public sector.

Luther works together with other commercial law firms in all the important jurisdictions worldwide. In Continental Europe, Luther is part of a group of leading independent law firms and has for years worked together with these firms in cross-border transactions. Luther is also the German member of Taxand, a global organisation of independent tax advisory firms.

Luther Rechtsanwaltsgesellschaft mbH is a law firm with an entrepreneurial approach: our innovative awareness aspires us to provide our clients with customised legal advice that addresses individual needs and delivers the greatest possible economic benefit. Our lawyers and tax advisors have a solid understanding of interdisciplinary matters and a wealth of experience in collaborating on complex tasks.

Further information is available at: www.luther-lawfirm.com

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