

**ENVIRONMENTAL AGREEMENT CONCERNING REDUCTION  
OF NO<sub>x</sub> EMISSIONS FOR THE PERIOD 2018–2025  
(the “NO<sub>x</sub> Agreement 2018–2025”)**

**On 24 May 2017, between  
the Norwegian State, represented by the Ministry of Climate and  
Environment,  
and  
the Construction Products Association, the Norwegian Fishing Vessel  
Owners Association, the Norwegian Seafood Federation, the Coastal  
Shipowners' Association, the Norwegian High-speed Craft  
Association, KS Enterprises, the Federation of Norwegian Aviation  
Industries, the Norwegian Hospitality Association, the Norwegian  
Fishermen's Association, the Norwegian Shipowners' Association,  
the Norwegian District Heating Association, the Federation of  
Norwegian Industries, the Confederation of Norwegian Enterprise,  
the Norwegian Oil and Gas Association and the Federation of  
Norwegian Coastal Shipping  
(hereinafter referred to as the “Business Organisations”)**

**(hereinafter referred to jointly as “the Parties”), the following  
Environmental Agreement has been entered into concerning a  
reduction of emissions of nitrogen oxides (NO<sub>x</sub>):**

## **1 Background and purpose**

Beginning 1 January 2007 an obligation was introduced to pay a tax per kilogram of emitted nitrogen oxides (NO<sub>x</sub>) on energy production from the following sources:

- propulsion machinery with a total installed capacity of over 750 kW
- motors, boilers and turbines with a total installed capacity of more than 10 MW
- flares on offshore installations and facilities on land.

Beginning 1 October 2010, the Storting's resolution on a tax on NO<sub>x</sub> emissions also encompasses waste incineration.

In the budgetary decision of the Storting, it was decided to include an exemption from the tax for emission sources encompassed by an environmental agreement with the State concerning the implementation of measures to reduce emissions of NO<sub>x</sub> in accordance with a predetermined environmental target, cf. section 2-1-d of the Storting's resolution on a tax on NO<sub>x</sub> emissions.

On 14 May 2008, the Norwegian State, represented by the Ministry of the Environment, and 14 business organisations entered into the Environmental Agreement Concerning Reduction of NO<sub>x</sub> Emissions (the “NO<sub>x</sub> Agreement 2008–2010”). The Business Organisations committed themselves in the agreement to help implement measures that result in quantified reductions in the annual NO<sub>x</sub> emissions from the emission sources encompassed by the agreement. The “NO<sub>x</sub> Agreement 2008–2010” gave a basis for individual undertakings that entered into this agreement to be exempt from paying the NO<sub>x</sub> tax for the years 2008–2010. A new agreement was entered into on 14 December 2010 between the Ministry of Environment and 15 business organisations. This agreement (the “NO<sub>x</sub> Agreement 2011–2017”) entails in all essentials a continuance of the “NO<sub>x</sub> Agreement 2008–2010”, and thus the basis for tax exemption, for the period 2011–2017.

The purpose of the environmental agreements concerning the reduction of NO<sub>x</sub> emissions is to prevent and reduce environmental problems caused by emissions of NO<sub>x</sub>. The first two NO<sub>x</sub> agreements were meant to contribute to Norway fulfilling, with a reasonable degree of certainty, its obligations to reduce NO<sub>x</sub> emissions in the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone of 30 November 1999 to the Convention on Long-Range Transboundary Air Pollution of 13 November 1979 (the Gothenburg Protocol), and the EEA Agreement, which incorporates EU Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants (the NEC Directive). In accordance with the Gothenburg Protocol and the NEC Directive, Norway is obligated to reduce its total annual NO<sub>x</sub> emissions to a maximum of 156,000 tonnes before the year 2010. Following the revision of the Gothenburg Protocol adopted 4 May 2012, Norway shall within 2020 reduce its annual NO<sub>x</sub> emissions by 23 per cent compared with the 2005 level.

The Business Organisations have established the Business Sector’s NO<sub>x</sub> Fund (hereinafter the “NO<sub>x</sub> Fund”), whose purpose is to support undertakings in Norway in implementing measures to reduce NO<sub>x</sub> and to ensure that the fund’s members contribute to this endeavour.

The present Agreement (the “NO<sub>x</sub> Agreement 2018–2025”) shall contribute to Norway’s compliance also in the upcoming years with the international emissions obligations that are currently in effect. The Agreement shall furthermore contribute to ensuring the emission reductions that are necessary for Norway to comply with new international emissions obligations in effect from 2030.

## **2 The Agreement’s scope, environmental obligations and organisation**

2.1 The “NO<sub>x</sub> Agreement 2018–2025” encompasses NO<sub>x</sub> emissions from the following sources:

1. Sources that are encompassed by the Storting’s resolution on a tax on NO<sub>x</sub> emissions, except for emission sources in state-owned undertakings that are funded through the state budget.

2. Sources of non-taxable emissions from production encompassed by NACE codes 17.1, 19.2, 20, 23.5, 23.9, 24.1 and 24.4.

2.2 The Business Organisations shall ensure that the total NO<sub>x</sub> emissions over two-year periods from the sources encompassed by the Agreement, pursuant to article 2.1, do not exceed the following levels (emission ceilings):

2018 and 2019: 192,000 tonnes in total (96,000 tonnes/year on average)

2020 and 2021: 182,000 tonnes in total (91,000 tonnes/year on average)

2022 and 2023: 172,000 tonnes in total (86,000 tonnes/year on average)

2024 and 2025: 162,000 tonnes in total (81,000 tonnes/year on average)

The basis for determining whether the emission ceilings are being complied with shall be the sum of the following:

1. For sources encompassed by article 2.1, no. 1: Such emissions shall be calculated and reported to the tax authorities pursuant to the Regulations of 11 December 2001 no. 1451 Concerning Special Taxes (hereinafter the Regulations on Special Taxes) and the Act of 27 May 2016, no. 14, on Tax Management (the Tax Management Act).
2. For sources encompassed by article 2.1, no. 2: such emissions shall be calculated and reported to the environmental authorities in accordance with regulations and permissions determined or granted pursuant to the Pollution Control Act.

2.3 The emission ceilings stated in article 2.2 have been set on the presupposition that the total emissions for 2016 calculated according to the method described in article 2.2 amounted to 97,000 tonnes. By 1 September 2017, the Norwegian Tax Administration and the Norwegian Environment Agency, in consultation with the NO<sub>x</sub> Fund, will quality assure the emission figures for 2016. If new calculations for 2016 should deviate from the presupposed amount of 97,000 tonnes, the State, represented by the Ministry of Climate and Environment, shall adjust the average annual emission ceilings for the individual two-year periods correspondingly, as expressed in the number of tonnes, by 1 November 2017. The State's decision on adjusting the emission ceilings is final and cannot be overruled.

2.4 The Business Organisations shall through the continued operation of the NO<sub>x</sub> Fund carry out the tasks that follow from this Agreement, the Participant Agreement (Appendix I) and the statutes of the NO<sub>x</sub> Fund. The NO<sub>x</sub> Fund shall, among other things, require on behalf of the Business Organisations payment per kg of NO<sub>x</sub> emissions from undertakings that affiliate themselves with the Agreement. For this agreement period, the Business Organisations will reduce the difference between the rates that are used for the undertakings' payments to the NO<sub>x</sub> Fund. The fund shall on behalf of the Business Organisations provide financial support for cost-efficient measures to reduce NO<sub>x</sub>. The NO<sub>x</sub> Fund shall be operated in accordance with the non-profit principle.

The State has no right to control or issue instructions to the NO<sub>x</sub> Fund and has no claim for representation on the fund's governing bodies.

- 2.5 The Business Organisations will ensure that when allocating support, the NO<sub>x</sub> Fund will prioritise measures with a long-term and enduring effect on emissions. During the entire agreement period, the Business Organisations, represented by the NO<sub>x</sub> Fund, will actively work with affiliated undertakings and suppliers to initiate and ensure the execution of such projects.
- 2.6 The Business Organisations shall, in consultation with the Norwegian Environment Agency and Statistics Norway, contribute to providing representative data for assessing the emission factors that are utilised in the Norwegian emission inventory.
- 2.7 This Agreement is to be regarded as an environmental agreement that gives a basis for temporary exemptions from the NO<sub>x</sub> tax pursuant to section 2-1-d of the Storting's resolution on a tax on NO<sub>x</sub> emissions for emission sources belonging to taxable undertakings. The undertakings affiliate themselves with the Agreement through a Participant Agreement, and in so doing receive the rights and obligations that are set out in the Agreement itself and the Participant Agreement.

The Agreement does not give a basis for temporary exemptions from the NO<sub>x</sub> tax after 31 December 2025.

- 2.8 Notification of the Agreement shall be given to the EFTA Surveillance Authority (ESA) for approval of the tax exemption with respect to the state aid rules of the EEA Agreement. The Agreement does not give a right to a tax exemption prior to approval being granted by ESA. The Business Organisations are obligated to assist the State in the notification process and participate in meetings when necessary. During the notification process, the Parties shall emphasise mutual openness.

### **3 Exchange of data and other information**

- 3.1 By 1 March of the years 2019–2026, the Norwegian Tax Administration shall submit data to the Norwegian Environment Agency and the NO<sub>x</sub> Fund, on behalf of the Business Organisations, concerning the previous year's stipulated taxable NO<sub>x</sub> emissions encompassed by the Agreement.
- 3.2 By 1 April of the years 2019–2026, the Business Organisations shall submit reports on implemented measures to the Norwegian Environment Agency. The reports shall also provide an overview of financial support and emission reductions of NO<sub>x</sub>, distributed according to branch and type of measure.
- 3.3 By 1 July 2026, the Business Organisations shall provide a report that outlines how various types of measures and their reduction of NO<sub>x</sub> are affected by technical and commercial factors throughout the agreement period. The report shall be submitted to the Ministry of Climate and Environment.
- 3.4 The State shall be allowed upon request to inspect the accounts of the NO<sub>x</sub> Fund. This request shall be addressed to the Confederation of Norwegian Enterprise.

- 3.5 The authorities will inform the Business Organisations of international developments that are significant for this Agreement.

## **4 Monitoring and control of compliance with the environmental obligations**

The Norwegian Environment Agency shall control whether the environmental obligations stated in this Agreement, formulated as emission ceilings for each of the periods as stated in article 2.2, have been complied with.

By 1 May in 2020, 2022, 2024 and 2026, the Norwegian Environment Agency shall provide the Parties, the NO<sub>x</sub> Fund and the Norwegian Tax Administration with a preliminary assessment, including relevant documentation, of whether the environmental obligations that have been determined in article 2.2 of the Agreement for the periods 2018–2019, 2020–2021, 2022–2023 and 2024–2025, respectively, have been complied with. The Parties have thereafter three weeks to make a statement on the preliminary assessment.

By 15 June in 2020, 2022, 2024 and 2026, the Norwegian Environment Agency shall make a final determination as to whether the Business Organisations have complied with the environmental obligation for the period in question and shall inform the Norwegian Tax Administration of its conclusion, and cc the NO<sub>x</sub> Fund and the Parties. If the Norwegian Environment Agency finds that the environmental obligation for a given period has not been complied with, the agency shall inform the Norwegian Tax Administration of the percentage-wise exceedance of the emission ceiling, and cc the NO<sub>x</sub> Fund and the Parties.

Enquiries to the Parties shall be addressed to the Confederation of Norwegian Enterprise and to the Ministry of Climate and Environment.

## **5 Rights and obligations of the individual undertakings that affiliate themselves with this Agreement**

### *5.1 Affiliation with the Agreement*

Every undertaking that is responsible for NO<sub>x</sub> emissions, and that is encompassed by the Agreement's scope as stated in article 2.1 of the Agreement, may affiliate itself with this Environmental Agreement by sending a Participant Agreement to the NO<sub>x</sub> Fund, cf. Appendix I. Affiliation will occur by the NO<sub>x</sub> Fund issuing a Certificate of Participation to the undertaking.

Undertakings that enter into this Environmental Agreement will be encompassed by the rights and obligations towards the NO<sub>x</sub> Fund and the State that appear in the Agreement and the Participant Agreement.

### *5.2 Right to exemption from the tax*

The Certificate of Participation gives the right to exemption from the tax, pursuant to section 2-1-d of the Storting's resolution and section 3-19-12 of the

Regulations on Special Taxes, from when the certificate is issued by the NO<sub>x</sub> Fund. The tax exemption will nonetheless first come into effect from the date of approval by ESA of the notification of exemption from the tax on NO<sub>x</sub> emissions.

Undertakings that are affiliated with this Environmental Agreement prior to ESA's approval as mentioned in article 2.8 will be refunded the taxes they will have paid after their affiliation with the Environmental Agreement until the date of approval. Undertakings that become affiliated with this Environmental Agreement before 1 July 2018 will be refunded the tax that they have paid for the period from 1 January 2018.

Undertakings that become affiliated with this Environmental Agreement before 1 April 2018 may use the exemption code when filing their first quarter taxes, contingent upon ESA approving the tax exemption.

5.3 *Obligation to pay tax upon withdrawal of the Certificate of Participation*

If the Certificate of Participation is withdrawn by the NO<sub>x</sub> Fund, the undertaking is obliged to pay the NO<sub>x</sub> tax from the day the Certificate of Participation was withdrawn. The undertaking may not plead to the tax authorities that the withdrawal of the Certificate of Participation was unjustified.

The NO<sub>x</sub> Fund shall ensure that the tax authorities are notified of undertakings that affiliate themselves with this Agreement, and if a Certificate of Participation is recalled.

5.4 *Obligation to pay tax in the event the environmental obligation is not fulfilled*

In the event the environmental obligation stated in article 2.2 is not fulfilled, a tax shall be paid according to the stipulations laid down in section 3-19-12 of the Regulations on Special Taxes.

If the total emissions encompassed by the Agreement are more than 3 per cent above the emission ceiling stated in article 2.2, a tax obligation will come into effect for the relevant period. For the period 2024–2025 (the final agreement period), a tax obligation will come into effect if the total emissions encompassed by the Agreement are higher than the emission ceiling stated in article 2.2.

If the Norwegian Environment Agency does not approve that the emission ceiling for a two-year period has been complied with, tax for which exemption has been granted shall be reported and paid within 18 July the year following the period in question. For tax that has not been paid within the payment deadline, interest shall be added pursuant to section 11-1 of the Tax Payment Act.

The NO<sub>x</sub> tax shall be paid for emissions of NO<sub>x</sub> for the period for which the tax obligation has come into effect. The tax rate shall be calculated according the following formula:

$$\text{tax rate} = 15 \times X \times Y$$

X = percentage-wise exceedance of the emission ceiling

Y = the tax rate stated in the Storting's resolution on a tax on NO<sub>x</sub> emissions

This calculation entails e.g. that if the total emissions encompassed by the Agreement are 4 per cent above the emission ceiling for a two-year period, the taxable undertaking in question must pay 60 per cent of the ordinary tax for its emissions for each of the two years.

The Norwegian Environment Agency shall calculate the percentage-wise exceedance of the emission ceiling (X), cf. article 4. The Norwegian Tax Administration shall decide the rate and announce its decision.

The rate decided upon pursuant to this stipulation cannot exceed the tax rate stated in the Storting's resolution on a tax on NO<sub>x</sub> emissions.

#### 5.5 *Obligation of information and documentation*

Upon affiliation with the Agreement, the undertakings consent that the tax authorities and the environmental authorities, without being impeded by the non-disclosure obligation, are able to exchange information and documentation that is demanded as a part of the follow-up to the Agreement.

## **6 Revision of the Agreement**

6.1 The Parties presuppose that carrying out the Business Organisations' obligations pursuant to article 2.2, cf. article 2.3 will ensure that Norway fulfils the obligations in the Gothenburg Protocol and the EEA Agreement on total annual NO<sub>x</sub> emissions from 2010 and 2020 onwards, respectively, cf. article 1.

6.2 As soon as it has been decided which international obligations Norway has committed itself to concerning NO<sub>x</sub> emissions from 2030, the Parties shall discuss the possible need for adjusting the emission ceilings in this Agreement in order to fulfil Norway's international obligations. The Ministry of Climate and Environment shall decide whether renegotiations shall take place to adjust the Agreement.

In the event that renegotiations take place to adjust the Agreement following this decision, the Parties shall determine emission ceilings on the following basis:

- The emission ceilings shall be established on the basis of a linear reduction from the emission ceiling for 2019 (estimated as the average annual emission ceiling for the period 2018–2019) to a target number for 2030.
- The target number for 2030 shall be established such that the emission reduction from 2015 to 2030 for the source categories encompassed by the Agreement correspond percentage-wise to the emission reduction that is necessary in order for Norway's total emissions in the same period to fulfil the international emission obligation from 2030 onwards.

- The reservation is made that developments in the total national emissions in the years leading up to 2030 might entail that the emission ceiling pursuant to this Agreement will deviate from the aforementioned emission trajectory.

In the event that the emission ceilings are renegotiated pursuant to this article, the Parties may simultaneously negotiate other stipulations in the Agreement, such as the obligation to pay tax in the event the environmental obligation is not fulfilled (article 5.4) and the limit for when the State can terminate the Agreement in the event the emission ceiling has been exceeded (article 7.2).

- 6.3 Independent of the stipulations in articles 2.3 and 6.2, the Ministry of Climate and Environment or the Business Organisations collectively can demand that the Agreement be renegotiated for periods beginning with (and including) 2020–2021.
- 6.4 Initiating a new round of negotiations shall be done through a written request to the Business Organisations represented by the Confederation of Norwegian Enterprise, or to the State, represented by the Ministry of Climate and Environment.
- 6.5 During any discussion or negotiation in accordance with articles 6.2 and 6.3, the Parties shall strive to reach a consensus on the underlying numerical data.

## **7 Termination and cessation of the Agreement**

- 7.1 If ESA does not approve without conditions the exemptions from the tax on NO<sub>x</sub> for taxable undertakings that are affiliated with the Agreement, the Agreement shall be terminated. If ESA sets conditions during its processing of the notification that make it necessary to change the Agreement, the Agreement will not terminate if the Parties agree to change the Agreement.
- 7.2 If the controls by the Norwegian Environment Agency show that the emission ceiling for a two-year-period pursuant to article 2.2 has been exceeded by more than 5 per cent, the State, or the Business Organisations collectively, can terminate the Agreement. If notice to terminate the Agreement is given, the tax exemption is terminated with effect from 1 January of the present year. The obligation to pay the tax in the event the environmental obligation is not fulfilled, pursuant to article 5.4, applies even if notice to terminate the Agreement in accordance with the first sentence has not been given.
- 7.3 If either the State, represented by the Ministry of Climate and Environment, or the Business Organisations collectively have initiated negotiations in accordance with article 6.2 or article 6.3, and the Parties fail to agree on new obligations, the State or the Business Organisations collectively may terminate the Agreement. Termination can first take place 4 months after one of the Parties initiated the negotiations, and it must be declared in writing. The obligation to pay the NO<sub>x</sub> tax will begin starting with the first day of the first month after the termination. This includes any obligation pursuant to article 5.4.

7.4 Upon the cessation of the Agreement, the Business Organisations shall ensure that the remaining capital of the NO<sub>x</sub> Fund is utilised to reduce the emissions of NO<sub>x</sub> in accordance with the purpose of the Agreement until the fund's capital is exhausted.

## 8 Entry into force

This Agreement shall enter into force when it is signed.

Oslo, dated 24 May 2017

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The State, represented by the Ministry of Climate and Environment

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The Construction Products Association

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The Norwegian Fishing Vessel Owners  
Association

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The Norwegian Seafood Federation

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