



Report to the Public Accounts
Committee on the administration of
the Danish Emission Trading Registry

March
2012

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Rigsrevisionen submits this report to the Public Accounts Committee in accordance with sections 8(1) and 17(2) of the Auditor General's Act, see Consolidated Act no. 101 of 19 January 2012.

The report concerns section 9 of the Fiscal Act. The Ministry of Taxation, section 23. The Ministry of the Environment and section 29. The Ministry of Climate, Energy and Building.

In the period during which the examination was conducted, the Ministry of Taxation was headed by the following Ministers:

Kristian Jensen: August 2004 - February 2010
Troels Lund Poulsen: February 2010 - March 2011
Peter Christensen: March 2011 - October 2011
Thor Möger Pedersen: October 2011 -

In the period during which the examination was conducted, the Ministry of the Environment was headed by the following Ministers:

Connie Hedegaard: August 2004 - November 2007
Troels Lund Poulsen: November 2007 - February 2010

In the period during which the examination was conducted, the Ministry of Climate, Energy and Building was headed by the following Ministers:

Connie Hedegaard: November 2007 - November 2009
Lykke Friis: November 2009 - October 2011
Martin Lidegaard: October 2011 -

I. Introduction and conclusion

1. This report is about the administration of the Danish Emission Trading Registry and VAT carousel fraud relating to CO₂ emission allowances ('allowances'). Rigsrevisionen launched the examination in April 2011 at the request of the Public Accounts Committee.

2. In Europe VAT carousel fraud relating to CO₂ allowances was extensive particularly in 2009. According to Europol's estimate, the fraud amounted to DKK 38 billion, but the basis of the estimate is uncertain. The media linked the fraud with the fact that VAT fraudsters from all parts of the world could open accounts with the Danish Emission Trading Registry, because persons and companies wanting to set up accounts with the Registry were not required by the Danish Energy Agency to provide any documentation of their identity.

3. The Danish Emission Trading Registry was established in January 2005 under the auspices of the Danish Environmental Protection Agency where it remained until January 2008, when the Danish Energy Agency under the Ministry of Climate, Energy and Building took over operation of the Registry. The principal responsibility of the Danish Energy Agency as the administrator of the Danish Emission Trading Registry is to keep account of the Danish companies' compliance with their CO₂ reduction commitments, and to set up and administer person holding accounts in the Registry.

4. In October 2011, the Ministry of Climate and Energy was transformed into the Ministry of Climate, Energy and Building, and Rigsrevisionen has decided to use the ministry's new name throughout this report. In the section of the report that concerns the Minister's briefing of the Danish Folketing (the parliament), Rigsrevisionen refers to the Minister as the Minister for 'Climate and Energy'.

5. The objective of the examination is to assess whether the Ministry of the Environment and the Ministry of Climate, Energy and Building have ensured that the Danish Emission Trading Registry was managed in a satisfactory manner. The report also looks into the scope of the VAT carousel fraud relating to trade in CO₂ allowances and current possibilities of committing VAT carousel fraud. The report answers the following questions:

- Have the Ministry of the Environment and the Ministry of Climate, Energy and Building ensured satisfactory administration of person holding accounts in the Danish Emission Trading Registry?
- Has the Minister of Climate and Energy briefed the Folketing correctly on the issues relating to the administration of the person holding accounts in the Danish Emission Trading Registry?
- What is the scope of VAT carousel fraud relating to trade in CO₂ allowances in Europe and current possibilities of committing VAT carousel fraud?

With Denmark's ratification of the Kyoto Protocol followed an obligation to set up an **emission trading registry** to keep record of all CO₂ allowances. A CO₂ allowance is an electronic unit with a unique number which gives the holder of the allowance the right to emit one tonne of CO₂ for a defined period of time. CO₂ allowances can be traded in all EU Member States, irrespective of their origin.

The Danish Emission Trading Registry contains **person holding accounts**, held by individuals or companies wishing to trade allowances, and **operator holding accounts**, held by companies that are subject to the emissions trading scheme.

MAIN CONCLUSION

In the opinion of Rigsrevisionen, the Ministry of the Environment and the Ministry of Climate, Energy and Building did not manage the Danish Emission Trading Registry in a satisfactory manner in the period January 2005 to December 2009. Rigsrevisionen also finds that the practice of the Danish Energy Agency has attracted VAT fraudsters and impacted the scope of VAT carousel fraud in other EU Member States.

For a period of four and a half years it was possible for persons using false identities to trade in CO₂ allowances in the Danish Emission Trading Registry, because the Danish Environmental Protection Agency and the Danish Energy Agency – in conflict with the EU regulations – did not require account holders to provide documentation of their identity. The Danish Energy Agency was made aware of this situation in July 2009, and the documentation requirements for setting up new accounts were subsequently tightened. The Agency did not, however, begin to collect documentation in relation to existing accounts until December 2009. The account holders that had set up accounts under false identities were thus at liberty to continue to trade in CO₂ allowances in the Danish Emission Trading Registry and commit VAT carousel fraud for another six months.

In Europe VAT carousel fraud relating to CO₂ allowances was extensive, particularly in 2009. It has not been possible for Rigsrevisionen to determine the full scope of the fraud in the EU, because investigations in the EU countries are still ongoing and because the information is considered confidential in certain countries.

The Danish Customs and Tax Administration (SKAT) has identified a VAT loss for the Danish government of DKK 1.4 million, but according to the assessment made by Rigsrevisionen, there is a risk that the actual VAT loss incurred by the Danish treasury may be greater. Moreover, 14 EU Member States have stated that they suspect VAT carousel in the amount of DKK 1.4 billion through the Danish Emission Trading Registry. Several countries have not yet quantified their suspected losses, and total losses may therefore exceed DKK 1.4 billion. Like most other EU Member States, Denmark has now changed its VAT regulations and since the new VAT rules took effect in April 2010 the potential for committing VAT carousel fraud relating to CO₂ allowances have been considerably reduced.

Since December 2009, the Minister of Climate and Energy has kept the Folketing updated on the issues relating to the administration of person holding accounts in the Danish Emission Trading Registry and expressed regret regarding the administrative errors made. The Minister has provided correct information on the administration of the Danish Emission Trading Registry in the period when most of the accounts were set up and the VAT carousel fraud took place. However, the Minister has not provided correct information to the Folketing concerning the administration of the Danish Emission Trading Registry when it was placed under the Danish Environmental Protection Agency.

The main conclusion is based on the following sub-conclusions:

Has the Ministry of the Environment and the Ministry of Climate, Energy and Building ensured satisfactory administration of person holding accounts in the Danish Emission Trading Registry?

Neither the Ministry of the Environment nor the Ministry of Climate, Energy and Building has ensured satisfactory administration of the Danish Emission Trading Registry. Neither the guidelines of the Danish Environmental Protection Agency nor the Danish Energy Agency met the requirements of the EU regulation concerning account holders' documentation of identity, for instance by way of a passport copy. Moreover, only in exceptional cases did the agencies require copies of passports in the period January 2005 to July 2009. In July 2009 the Danish Energy Agency was instructed to tighten the documentation requirements. The Agency did not, however, start requiring documentation in relation to existing accounts until December 2009, and the approximately 700 accounts in the Danish Registry were thus open for trading while the VAT carousel fraud was at its peak.

Has the Minister of Climate and Energy briefed the Folketing correctly on the issues relating to the administration of person holding accounts in the Danish Emission Trading Registry?

Since December 2009, the Minister of Climate and Energy has kept the Folketing updated on the issues relating to the administration of person holding accounts in the Danish Emission Trading Registry. The Minister has also expressed regret regarding the administrative errors made. The Minister has provided correct information on the Danish Energy Agency's administration of the Danish Emission Trading Registry from 2008 onwards but has on several occasions been obliged to correct the information provided in respect to the Danish Energy Agency's collection of documentation. But the Minister has not provided correct information to the Folketing concerning the administration of the Danish Emission Trading Registry when it was placed under the Danish Environmental Protection Agency.

What is the scope of VAT carousel fraud relating to trade in CO₂ allowances in Europe and the current possibilities of committing VAT carousel fraud?

SKAT has identified a VAT loss for the Danish treasury of DKK 1.4 million, but according to the assessment made by Rigsrevisionen, there is a risk that in reality the extent of the VAT carousel fraud against the Danish treasury is greater. Moreover, it is suspected that VAT carousel fraud in the amount of at least DKK 1.4 billion has been committed against other EU government treasuries through the Danish Emission Trading Registry. However, it is not possible to determine the total value of the VAT carousel fraud in relation to CO₂ allowance trading in Europe at this point, because investigations are still ongoing and because the information is considered confidential in certain countries. The introduction of reverse charge for CO₂ allowance trading in April 2010 considerably reduced the potential for committing VAT carousel fraud against the Danish treasury.

EU regulations have immediate binding force throughout the EU Member States, and no action is required to make them part of national law.

II. Introduction

A. Background

6. This report is about the administration of the Danish Emission Trading Registry and VAT carousel fraud relating to CO₂ allowances. The Danish Emission Trading Registry ('the Danish Registry') was established in January 2005 under the auspices of the Danish Environmental Protection Agency where it remained until January 2008, when the Danish Energy Agency under the Ministry of Climate, Energy and Building took over operation of the Danish Registry.

7. In summer 2009 the tax authorities in the EU countries became aware that in several EU countries VAT fraud was being committed in relation to CO₂ allowances. The media described how the number of person holding accounts opened in 2009 had increased sharply in the Danish Registry and linked this with the Danish Registry's failure – contrary to the EU rules on emission trading registries – to require documentation from persons wishing to open a person holding account with the Registry.

During the period December 2009 - June 2011 the Minister for Climate and Energy answered many questions from the Folketing about this issue and presented statements on the administration of the Danish Registry. The questions chiefly concerned whether the VAT carousel fraud in Denmark and other EU countries could be attributed to the lack of documentation in the Danish Registry.

8. In November 2010 the Public Accounts Committee requested Rigsrevisionen to prepare a memorandum on the establishment and operation of the Danish Registry. According to the request the examination could clarify the objective and function of the Danish Registry and its compliance with current EU requirements for documentation on account creation. The Public Accounts Committee also requested Rigsrevisionen to consider examining the potential for and scope of illegal trade in and VAT carousel fraud relating to CO₂ allowances and credits in Europe, including a review of solved cases and preventive measures.

In June 2011, the auditor general issued a memorandum to the Public Accounts Committee about the organisation of the examination, according to which the examination would also look into whether the Minister for Climate and Energy had provided correct information to the Folketing.

Objective and function of the Danish Registry

9. In 1997, under the so-called Kyoto Protocol, a large number of industrialised countries undertook to reduce their greenhouse gas emissions. The agreement included a collective commitment on the part of the EU countries to reduce greenhouse gas emissions by 8 per cent during the period 2008-2012 from the level in 1990.

The EU countries have subsequently entered into a burden-sharing agreement that makes allowance for each country's options for reducing emissions. As far as Denmark is concerned, the burden-sharing agreement entails a 21 per cent reduction commitment relative to the 1990 level.

It is up to each individual country to decide how it intends to reduce its CO₂ emissions, but the EU emission trading directive requires countries to draw up national allocation plans for the reduction. According to the Danish allocation plan for the period 2008-2012, 40 per cent of the total emission reduction commitment in Denmark must be met by companies subject to the emission trading scheme. The remainder reduction commitment must be met, in part by reducing CO₂ emissions in non-emission trading scheme sectors.

10. Every year a number of free allowances are allocated to individual companies subject to the emission trading scheme and in the following year each company must surrender the number of allowances corresponding to its CO₂ emissions. If a company emits more CO₂ than permitted by the allowances allocated it may buy additional allowances from companies with spare CO₂ allowances. Companies may buy and sell allowances across Member-State borders. The purpose of emission allowance trading ('allowance trading') is to use the market to ensure CO₂ reduction in the companies for which this is financially most profitable, and the price of allowances is fixed according to supply and demand.

11. The primary purpose of emission trading registries is to check that the companies in the EU that are subject to the emission trading scheme comply with their commitments. The primary task of the Danish Registry is to transfer allowances to the approx. 375 Danish companies covered by the EU's emission trading regulations and to monitor that they surrender allowances corresponding to their CO₂ emissions.

It also follows from the emission trading directive that any person may hold allowances. Another purpose of the Danish Registry is therefore to open accounts for companies and private individuals wishing to trade in CO₂ allowances and credits in the market and register all account holders' ownership and allowance trading. Box 1 shows how companies and private individuals open accounts with the Danish Registry.

BOX 1. OPENING ACCOUNTS IN THE DANISH REGISTRY

How companies open accounts with the Danish Registry depends on whether they are subject to the Act on CO₂ Allowances (*Lov om CO₂ Kvoter*). Companies subject to the Act must obtain a permit from the Ministry of Climate, Energy and Building to emit CO₂. The Danish Energy Agency therefore approaches the companies and creates *operator holding accounts* to enable the Agency to monitor whether the companies meet their CO₂ reduction commitments.

Companies or private individuals not subject to the Act on CO₂ Allowances may open a *person holding account* with the Danish Registry via the Danish Energy Agency's website. An operator wishing to open accounts in addition to the statutory operator holding account must apply to open person holding accounts.

Applicants for both operator and person holding accounts must appoint two authorised representatives, but the account holder and the company may be one of the authorised representatives. Authorised representatives are authorised to represent the account holder and must be entered in the Danish Registry.

12. An allowance is freely negotiable and exists in electronic form only. Accordingly, allowance trading depends on the existence of electronic registries for storing the allowances and registering ownership.

Sectors subject to the emission trading scheme

The energy sector and the energy-intensive industry in Denmark are subject to the EU emission trading scheme, whereas the transport and agricultural sectors, households and small industrial companies are not.

CO₂ allowance prices (prices apply to the month of September in individual years)

2005:	DKK 158
2006:	DKK 89
2007:	DKK 0
2008:	DKK 181
2009:	DKK 97
2010:	DKK 113
2011:	DKK 84

Source: Point Carbon.

13. The Danish Registry is linked to the EU and UN electronic systems for emission trading registries to enable free trading between the accounts of various registries. Trading is registered via a network of electronic emission trading systems in which all registries approved to form part of the system may communicate electronically with each other to enable the transfer of allowances between accounts in different countries.

14. Allowance trading takes place either directly between two account holders or via an emission trading exchange, and all allowance trading agreements and the related terms, including prices, are unknown to the Danish Registry.

15. The establishment and operation of the Danish Registry are governed by the EU regulation on a standardised and secure system of registries. The regulation includes rules on the issue, surrender and cancellation of allowances and detailed requirements for the data systems, security standards, system processes and technical specifications used to prevent irregularities and ensure smooth allowance trading.

16. As from June 2012 the operation of the Danish Registry will pass to the EU, but the Danish Energy Agency will remain responsible for managing the Danish Registry, including opening and closing person holding accounts and administering companies subject to the emission trading scheme.

The regulations in force since 2005 are Commission Regulation No. 2216/2004 and No. 920/2010 on a standardised and secure system of registries.

VAT carousel fraud

17. Most goods and services, including CO₂ allowances, are subject to VAT. When the internal market was created in 1993, the EU Member States launched a VAT scheme to facilitate intra-Community trade, according to which imported and exported goods and services from one EU Member State to another must be VAT exempt. Accordingly, VAT is not payable on imported and exported goods until the goods are resold within the same country. This VAT scheme also applies to CO₂ allowance trading.

18. Since the creation of the internal market VAT carousel fraud has been a well-known phenomenon in the EU, typically in relation to goods with a ready market like, for instance mobile phones and computer equipment. VAT carousel fraud involving CO₂ allowances differs from fraud involving other goods because CO₂ allowances only exist electronically in national emission trading registries where trading can take place within the same registry as well as among registries. Moreover, uncovering suspicious chains of allowance transactions and discovering who is behind the fraud is a particularly complex task, because companies and persons from all over the world may open accounts and trade in any country's emission trading registry.

19. VAT carousel fraud is committed when a company buys VAT-exempt goods in a foreign country and resells them to another company in the same country. The selling company collects VAT on the resale, but fails to settle the VAT with the tax authorities. Instead the company transfers the money to a bank in another country, for example, outside the EU, where it is not readily possible to seize the funds. Passing the goods between companies in individual EU countries will generate the gain several times and cause each country's treasury to suffer significant losses. The tax authorities' efforts to combat VAT carousel fraud in the EU are hampered by the fact that in cases of transnational economic crime, access to information on the trading and VAT payments between EU countries is limited. The principles behind VAT carousel fraud are set out in Box 2.

The composition of the Danish Emission Trading Registry account holders

10 per cent of the individuals or companies that have had accounts in the Danish Registry over the years have indicated Denmark as their country of origin. The remaining 90 per cent of the account holders have their origin in 57 other countries, and 15 per cent hereof are countries outside the European Union.

BOX 2. PRINCIPLES BEHIND VAT CAROUSEL FRAUD

VAT carousel fraud requires the involvement of at least three companies located in at least two EU Member States, and these companies need not be live companies.

Company A (in Denmark, for example) buys a substantial quantity of CO₂ allowances, which are then sold to company B in another EU country. No VAT is charged on the transaction because it is a cross-border transaction. Company B now resells the allowances to company C in its own EU country and charges VAT in connection with the resale. After company B has received the VAT from company C, company B fails to settle the VAT with the tax authorities. Company C now resells the allowances to company A, after which company C is reimbursed by the government for the VAT paid to company B in connection with the transaction.

The government has now reimbursed the VAT settled to company C without receiving VAT from company B. Company B then goes bankrupt. At this point, company A owns the allowances that may once more form part of the carousel.

20. It is common for persons and companies participating in VAT carousel fraud to hide behind nominees and fictitious names and addresses and for companies to go bankrupt before the tax authorities have time to collect VAT. The risk that the tax authorities will not detect ongoing VAT carousel fraud until it is too late and that the VAT money and the persons behind have disappeared is high.

21. The opportunity to commit VAT carousel fraud depends on the VAT rules whereas the attractiveness of the crime is influenced by the documentation requirements for the identity of the persons and enterprises wishing to open person holding accounts in the Danish Registry. If anyone can open an account with the Danish Registry using a false identity it is, all else being equal, more difficult for the tax authorities to identify VAT carousel fraud transactions and for the police to determine who can be held responsible. Consequently, the risk of attracting companies and persons intending to commit VAT carousel fraud can be assumed to be highest in registries with the fewest requirements for documentation.

In Denmark SKAT is responsible for collecting VAT and carrying out risk-based checks with a view to revealing VAT carousel fraud against the Danish treasury. However, the Danish Energy Agency's administration of the Danish Registry, including registration of account holders' ownership, affects the degree to which committing VAT carousel fraud is attractive because, if an account is opened on the basis of false data, the chances of identifying the perpetrators of the fraud are slim.

B. Objective, delimitation and method

Objective

22. The objective of this examination is to assess whether the Ministry of the Environment and the Ministry of Climate, Energy and Building have ensured that the Danish Emission Trading Registry was managed satisfactorily. The examination is also intended to look into the scope of the VAT carousel fraud related to trade in CO₂ allowances and the current possibilities of committing VAT carousel fraud. The report answers the following questions:

- Have the Ministry of the Environment and the Ministry of Climate, Energy and Building ensured satisfactory administration of person holding accounts in the Danish Registry?
- Has the Minister for Climate and Energy briefed the Folketing correctly on the issues relating to the administration of person holding accounts in the Danish Registry?
- What is the scope of VAT carousel fraud in trading CO₂ allowances in Europe and what are the current possibilities of committing VAT carousel fraud?

Delimitation and method

23. The examination covers the period 1 January 2005 - 15 November 2011.

24. The examination includes the Danish Environmental Protection Agency's and the Danish Energy Agency's administration of the opening of person holding accounts with the Danish Registry because, according to the information received, the VAT carousel fraud committed related exclusively to person holding accounts. Accordingly, the examination does not cover the agencies' administration of the so-called operator holding accounts.

25. The examination is based on a review of the information provided to the Folketing regarding the Danish Registry, case reviews and reviews of the memoranda and recommendations of the Ministry of Climate, Energy and Building regarding questions raised in the Folketing, Rigsrevisionen's correspondence with the Ministry of the Environment, the Ministry of Climate, Energy and Building, the Danish Energy Agency and SKAT and spot-check case reviews relating to person holding accounts in the Danish Registry.

26. The spot-check reviews covers documentation relating to a total of 354 person holding accounts, equal to approx. 27per cent of the person holding accounts opened with the Danish Registry. Based on the information provided to the Folketing by the Minister for Climate and Energy about the administration of the Danish Registry, the examination period is divided into four periods:

- period 1: 1 January 2005 - mid-2007
- period 2: mid-2007 - 16 July 2009
- period 3: 17 July 2009 - 21 December 2009
- period 4: 22 December 2009 - 15 November 2011.

As regards the 1st and 4th periods, during which fewer than 100 person holding accounts were opened, Rigsrevisionen reviewed all accounts. For the 2nd and 3rd periods, Rigsrevisionen selected the first person holding account opened each day during the period, which means that approx. 20per cent for the 2nd period and approx. 23per cent for the 3rd period were reviewed.

27. In addition, Rigsrevisionen has tried to collect updated information about the scope of VAT carousel fraud and solved cases in Europe. In this connection, Rigsrevisionen asked the Supreme Audit Institutions of the EU Member States and the Norwegian Supreme Audit Institution for information about VAT carousel fraud, including the number of cases and accounts relating to the Danish Registry.

A total of ten countries have contributed information about VAT carousel fraud. In addition, six countries have stated that they were unable to answer because the information was confidential or because investigations were still ongoing. Eleven countries failed to answer.

Further, Rigsrevisionen has tried to estimate the extent to which the VAT carousel fraud in other EU countries relates to the Danish Registry. However, in this connection Rigsrevisionen has not looked into any law of damages aspects that may be relevant in relation to other EU countries as a result of the Danish Energy Agency's administration of the Danish Registry.

28. The draft report has been presented to the Ministry of Climate, Energy and Building, the Ministry of the Environment and the Ministry of Taxation, whose comments have been incorporated to the widest possible extent.

29. Appendix 1 provides a glossary explaining selected words and concepts.

III. Administration of person holding accounts in the Danish Registry

Neither the Ministry of the Environment nor the Ministry of Climate, Energy and Building has ensured satisfactory administration of the Danish Emission Trading Registry. Neither the guidelines of the Danish Environmental Protection Agency nor the Danish Energy Agency met the requirements of the EU regulation concerning account holders' documentation of identity, for instance by way of a passport copy. Moreover, only in exceptional cases did the agencies require copies of passports in the period January 2005 to July 2009. In July 2009 the Danish Energy Agency was instructed to tighten the documentation requirements. The Agency did not, however, start requiring documentation in relation to existing accounts until December 2009, and the approximately 700 accounts in the Danish Registry were thus open for trading while the VAT carousel fraud was at its peak.

EU regulations have immediate binding force throughout the EU Member States, and no action is required to make them part of national law.

30. Rigsrevisionen's examination of the Danish Registry's administration of person holding accounts showed:

- In the period 1 January 2005 - 21 December 2009, the guidelines of the Danish Environmental Protection Agency and the Danish Energy Agency did not meet the EU regulation's documentation requirements. The Danish Environmental Protection Agency only required foreign citizens to provide documentation by way of copies of passports, and the Danish Energy Agency required no passport documentation at all in its guidelines until December 2009.
- In July 2009 the Danish Energy Agency was informed that its practice conflicted with the EU regulation. Soon after, the Agency made the submission of a passport copy a requirement in its application form for opening person holding accounts, and since December 2009, the Agency's guidelines have complied with the requirements of the EU regulation.
- Rigsrevisionen's examination has shown that during the period January 2005 - mid-2007, the Danish Environmental Protection Agency obtained copies of passports in 6 per cent of cases, whereas during the period mid-2007 - mid-2009, the Danish Environmental Protection Agency and Danish Energy Agency obtained no documentation at all. During the period 17 July - 21 December 2009, the Danish Energy Agency required copies of passports in approx. 80 per cent of cases, whereas for all accounts opened during the period 22 December 2009 - 15 November 2011, the Agency required the necessary documentation.

- The Danish Energy Agency did not start requiring documentation of the approx. 700 existing accounts until December 2009 although, already in July 2009, the Agency had been made aware that its practice did not comply with the documentation requirements of the EU regulation. This enabled any VAT fraudsters in the Danish Registry, who had basically provided no documentation of their identity, to continue committing VAT carousel fraud for yet another six months. Since 22 December 2009 the Danish Energy Agency has obtained supplementary documentation and closed the accounts not meeting the more stringent documentation requirements.
- The Ministry of Climate, Energy and Building has stated that the Danish Energy Agency did not realise the full extent of the problem until December 2009, and that the requisite focus on the existence of special problems in the Danish Registry was lacking. Rigsrevisionen's examination of the matter has similarly revealed a lack of requisite focus on the problems in the Danish Registry until December 2009 and the connection with the VAT carousel fraud.

A. The Danish Environmental Protection Agency's and the Danish Energy Agency's compliance with the EU regulation

Compliance with documentation requirements

31. First, Rigsrevisionen has examined whether the guidelines of the Danish Environmental Protection Agency and the Danish Energy Agency for opening person holding accounts in the Danish Registry comply with the requirements of the current EU regulation. Second, Rigsrevisionen has examined whether the Danish Energy Agency has complied with the EU regulation's IT security requirements. Finally, Rigsrevisionen has carried out a spot check of person holding accounts in the Danish Registry to examine whether the Danish Environmental Protection Agency and the Danish Energy Agency in practice complied with the identification requirements of the EU regulation.

Danish guidelines for opening person holding accounts

32. Table 1 shows the requirements of the EU regulation and the Danish guidelines during the period 1 January 2005 - 15 November 2011. The black crosses in the table show whether the requirement originates from the current EU regulation and the red crosses show whether the Danish guidelines also include the requirements concerned.

Table 1. Requirements for information and documentation in the EU regulation and the Danish guidelines, respectively, when opening person holding accounts in the Danish Registry during the period 1 January 2005 - 15 November 2011

	Master data (account holder and authorised representatives)	Documentation of identity (ac- count holder and authorised representatives)	VAT no., if regis- tered in the EU (account holder)	Address Documenta- tion	Statement from bank	Do the Danish guidelines meet the documentation re- quirements of the EU regulation?
1 January 2005 - 31 December 2007	X X	X				No, the Danish Environmental Protection Agency does not require Danish citizens and one of the two authorised representatives to submit a passport copy.
1 January 2008 - 16 July 2009	X X	X				No, the Danish Energy Agency does not require documentation of identity.
17 July 2009 - 21 December 2009	X X	X				No, but according to the Danish Registry's application form for opening person holding accounts, the account holder and the two authorised representatives had to state VAT no., if applicable, and submit copies of passports.
22 December 2009 - 7 June 2010	X X	X X	X	X (for companies)		Yes, the Danish guidelines are stricter than the EU minimum requirements.
8 June 2010 - 14 October 2010	X X	X X	X	X (for account holders and the two authorised representatives)		Yes, the Danish guidelines are stricter than the EU's minimum requirements.
15 October 2010 - 15 November 2011	X X	X X	Requirement for VAT registration in Denmark.	X X In addition, re- quirement for the two authorised representatives to be domiciled in Denmark.	X X	Yes, the Danish guidelines are stricter than the EU minimum requirements.

X: Information and documentation required by EU regulations.

X: Information and documentation required by Danish guidelines.

According to table 1, during the period 1 January 2005 - 16 July 2009, the Danish guidelines did not meet the documentation requirements of the EU regulation. During the period 1 January 2005 - 31 December 2007, copies of passports were not required for Danish citizens and one of the two authorised representatives, and during the period 1 January 2008 - 16 July 2009, no identity information was required at all. During the period 17 July - 21 December 2009 the guidelines included no documentation requirement either, but in turn, according to the Danish Registry's application form for opening person holding accounts, the account holder and the two authorised representatives had to disclose VAT no., if applicable, and submit copies of passports. Since 22 December 2009 the Danish Energy Agency has set stricter documentation requirements in its guidelines than the EU minimum requirements because, in addition to passports or the like, the Agency requires VAT no. and address documentation and, since October 2010, has required a statement from the bank, VAT registration and Danish domicile.

33. On 1 January 2008, the Danish Energy Agency took over responsibility for the Danish Registry from the Danish Environmental Protection Agency. The Danish Energy Agency has pointed out to Rigsrevisionen that it merely continued the practice adhered to by the Danish Environmental Protection Agency. As stated above, during the period 1 January 2005 - 31 December 2007, the Danish Environmental Protection Agency required copies of passports from foreign citizens and one of the two authorised representatives, whereas the Danish Energy Agency's guidelines for the period 1 January 2008 - mid-2009 stipulated no documentation requirements at all. Not until mid-2009 was a requirement for passport copies incorporated in the Danish Registry's application form. Accordingly, the new guidelines drafted by the Danish Energy Agency when it took over the administration of the Danish Registry from the Danish Environmental Protection Agency included fewer documentation requirements than the Danish Environmental Protection Agency's guidelines.

Practice for opening person holding accounts

34. Rigsrevisionen has reviewed a total of 354 person holding accounts, equal to approx. 27 per cent of the 1,296 person holding accounts opened since 2005, and checked whether the documentation required by the EU regulation in force at the time the accounts were opened was available. The examination period was divided into four periods. Table 2 shows the findings of Rigsrevisionen's review.

Table 2. Share of person holding accounts meeting the documentation requirements of the EU regulation during the period 1 January 2005 - 15 November 2011

	Number of person holding accounts opened	Checked by Rigsrevisionen	Share complying with EU requirements
1 January 2005 - mid-2007	64 ¹⁾	100 per cent	6 per cent
Mid-2007 - 16 July 2009	735	20 per cent	0 per cent
17 July 2009 - 21 December 2009	460	23 per cent	80 per cent
22 December 2009 - 15 November 2011	37	100 per cent	100 per cent

¹⁾ It is not possible to see the exact time of creation in the Danish Registry for accounts opened prior to February 2008. In order to trace the accounts definitely opened prior to mid-2007, Rigsrevisionen has selected accounts that were either closed down or had transactions prior to mid-2007. More accounts may possibly have been opened during the period. Accounts not definitely opened prior to mid-2007 are included in the subsequent period.

Table 2 shows that during the initial two periods, i.e. until 16 July 2009 when the Danish Energy Agency was made aware of the problem, the Danish Environmental Protection Agency and the Danish Energy Agency only obtained documentation in exceptional cases. Altogether during these two periods 799 person holding accounts were opened. During the two final periods, the Danish Energy Agency obtained documentation regarding 80 per cent of the person holding accounts opened in the period 17 July 2009 - 21 December 2009 and regarding 100 per cent of those opened in the period 22 December 2009 - 15 November 2011. During the period 17 July 2009 - 21 December 2009 460 accounts were opened, while 37 accounts were opened in the period 22 December 2009 - 15 November 2011.

Compliance with IT security requirements

35. Rigsrevisionen has examined whether the Danish Energy Agency has complied with the IT security requirements of the EU regulation.

36. The examination shows that the Danish Energy Agency complied with the IT security requirements of the EU regulation regarding system users, because both the EU and the UN have approved the implementation of the Danish Registry.

37. According to the regulation, adequate IT security must be provided internally, i.e. Article 68(3) of the regulation states that the registry administrator must ensure that the Registry incorporates robust systems and procedures to protect all data. The security requirement concerns access to the system and applies both internally at the Danish Energy Agency and to sub-suppliers' access to the system.

38. The examination has shown that in connection with the management of sub-suppliers, the Danish Energy Agency had not sufficient focus on internal IT security and that it failed to comply with the requirements of the EU regulation for internal IT security. Accordingly, the Agency failed to regularly check whether the access provided was always used in compliance with the procedures laid down or whether the Danish Registry's two sub-suppliers may have abused their user access.

39. As part of Rigsrevisionen's examination, the Danish Energy Agency has spot-checked which persons have had access to the Danish Registry via sub-suppliers. Rigsrevisionen's review does not give rise to any suspicion of unauthorised user access.

40. EU's emission trading registry system, including the Danish Registry, has been exposed to several phishing attacks in which outsiders have tried to gain access to account holders' user names and passwords. The first phishing attack occurred in January 2010, after which the UN chose to close down global trading. In March 2010 the Danish Registry was attacked once more, and in April 2010, the Danish Energy Agency started logging IP addresses to facilitate crime investigation in connection with registry transactions. In January 2011, several European emission trading registries once more suffered phishing attacks against account holders in which allowances were stolen, and the EU again closed down trading.

The EU and the European emission trading registries then agreed on a number of minimum requirements that each registry had to meet before being allowed to reopen. The Danish Registry tightened its security procedures, after which the Danish Registry was approved by the EU and reopened in April 2011.

The Danish Energy Agency has stated that no one has succeeded in stealing neither identity information nor allowances from Danish Registry users.

Phishing attacks are aimed directly at IT system users as opposed to attacks by hackers that are aimed at system software or servers.

B. Steps taken by the Danish Energy Agency to improve documentation

41. Rigsrevisionen has examined whether the Danish Energy Agency responded swiftly and effectively in terms of improving the documentation of account holders' identity.

42. The Minister for Climate and Energy has explained to the Folketing how, on 15 July 2009, a member of the European Commission staff responsible for issues relating to the central EU emission trading registry pointed out to the Danish Energy Agency that the Danish procedure for opening person holding accounts was by far the simplest in the EU and apparently did not comply with the minimum requirements of the EU regulation. The employee also recommended that the Agency tighten its documentation requirements and obtain documentation regarding accounts opened prior to July 2009.

43. According to the report submitted to the Folketing in March 2010 the European Commission staff member approached the Danish Energy Agency because the Agency had previously asked the very same staff member whether – due to an increasing number of applications for opening accounts with the Danish Registry in the first half of 2009 – it was possible to close the Danish Registry for a period.

44. The examination has shown that on 17 July 2009 the Danish Energy Agency inserted a requirement in the application form used by the Danish Registry for opening person holding accounts requiring that the account holder and the two authorised representatives submit copies of passports and VAT no., if applicable, and the Agency subsequently updated its guidelines in December 2009.

As regards obtaining documentation regarding existing accounts, the Climate and Energy Minister informed the Folketing that through a regrettable error, the Agency had failed to notice that the communication on 15 July also included a recommendation for the Agency to obtain documentation retrospectively of the identity of account holders and authorised representatives and that the Agency had not become aware of this until in December 2009. This enabled potential VAT fraudsters who had not identified themselves to continue committing VAT carousel fraud for another six months.

The examination has shown that in December 2009 the Danish Energy Agency asked the approx. 700 account holders who had opened accounts prior to July 2009 to submit the documentation now required by 1 February 2010. By doing so, the Agency followed the advice of the Attorney to the Danish Government to give account holders who had initially failed to submit any documentation a time limit of one month to submit the documentation now required. The Danish Energy Agency then blocked or closed the accounts of account holders failing to submit the required documentation by 1 February 2010.

45. Following the retrospective tightening of requirements the Danish Energy Agency closed approx. 1,000 accounts because fees had not been paid or the required documentation submitted. At 30 April 2010 after all these accounts had been closed, only approx. 30 accounts were left open.

46. Figure 1 shows the development in number of opened and closed person holding accounts in the Danish Registry during the period December 2008 - July 2010.

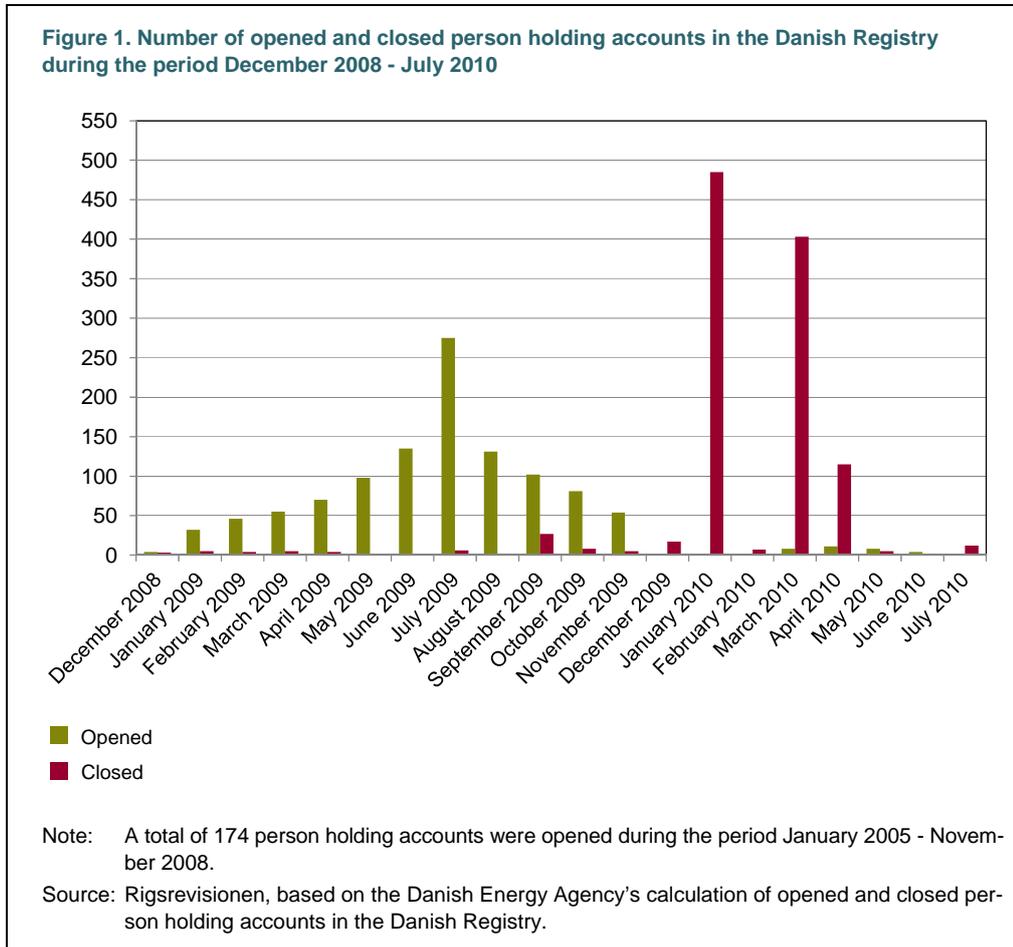


Figure 1 shows that the number of opened accounts increased steadily during the period January - July 2009, after which it dropped again. The figure also shows that approx. 500 accounts were closed in January 2010 and that another approx. 500 were closed in March and April 2010.

The number of opened accounts peaked in July 2009 and then dropped significantly when the Danish Energy Agency started to require documentation.

47. Rigsrevisionen's review of open accounts at 15 November 2011 shows that of 32 person holding accounts, seven or approx. 22 per cent, still did not meet the documentation requirements of the most recent EU regulation. Five of the seven accounts had been opened prior to 2008 and two in 2009. The Danish Energy Agency explained that it had not yet completed processing these cases which involved account holders that also held operator holding accounts. The Agency's initial focus was on person holding accounts because, to the Agency's knowledge, this type of account appeared to be related to VAT carousel fraud. The actual case processing time related to any closing of accounts in respect of which the account holder had failed to submit documentation is thus almost two years.

The Ministry of Climate, Energy and Building has subsequently advised that at end-November 2011 only one account was still being processed.

C. The Ministry of Climate, Energy and Building's initiatives in relation to the Danish Registry based on the Danish Energy Agency's briefing

48. Table 3 shows the time and content of the Danish Energy Agency's briefing of the Ministry of Climate, Energy and Building on the problems regarding the Danish Registry and the Ministry's initiatives in this respect.

Table 3. The Danish Energy Agency's briefing of the Ministry of Climate, Energy and Building and the Ministry's initiatives regarding the Danish Registry

	Danish Energy Agency's briefing of the Ministry of Climate, Energy and Building	Initiatives by the Ministry of Climate, Energy and Building
24 August 2009	The Danish Energy Agency states that VAT carousel fraud related to CO ₂ allowances has been ascertained in the EU, and that apparently Denmark is currently the target of the VAT fraudsters. According to a SKAT memorandum, the Danish Registry did not previously require documentation, but following a meeting with SKAT, the Agency introduced a passport requirement and as a result of the lack of documentation, it was difficult to identify VAT carousel fraud.	
1 December 2009	The Danish Energy Agency states that the EU regulation was not complied with in the period 2007-2009, but that the Danish Energy Agency now follows the EU regulation.	
1 December 2009		The Ministry of Climate, Energy and Building requests information from the Danish Energy Agency about the administration of the Danish Registry. Moreover, the Ministry of Climate, Energy and Building asks for the Danish Energy Agency's comments on the division of responsibilities between the Danish Energy Agency and SKAT in connection with verification of identity information.
4 December 2009	The Danish Energy Agency confirms SKAT's information about the division of responsibilities and provides information about the cooperation with SKAT on verification of the documentation.	
15 December 2009	The Danish Energy Agency explains that it failed to pay attention to the EU recommendation to require documentation regarding accounts opened prior to July 2009.	
23 December 2009	The Danish Energy Agency states that no documentation was required during the period mid-2007 - mid-2009 as a result of a decision taken in 2007 by the Danish Environmental Protection Agency to simplify procedures.	
23 December 2009		The Ministry of Climate, Energy and Building asks the Danish Energy Agency to prepare a statement on the Danish Registry.
18 March 2010	The Danish Energy Agency submits its first statement to the Ministry of Climate, Energy and Building, in which it explains the problems relating to the lack of documentation, including the Danish Environmental Protection Agency's decision to simplify administrative procedures, the lack of compliance with the documentation requirement during the period mid-2007 - mid-2009, the communication in July 2009 from the EU and the Agency's collection of documentation from December 2009.	

	Danish Energy Agency's briefing of the Ministry of Climate, Energy and Building	Initiatives by the Ministry of Climate, Energy and Building
November 2010		The Ministry of Climate, Energy and Building asks the Attorney to the Danish Government to explain the law of damages aspects in relation to EU countries that may have suffered losses as a result of the operation of the Danish Registry. On 20 December 2010, the Attorney to the Danish Government finds that, on the evidence, it is doubtful whether VAT carousel fraud is a foreseeable consequence of the Danish Energy Agency's administration of the Danish Registry. The Attorney to the Danish Government also states that an assessment of whether liability in damages exists requires a detailed investigation of the circumstances in each country.
3 January 2011	The Danish Energy Agency submits its second statement on the Danish Registry to the Ministry of Climate, Energy and Building, in which it, among other things, takes stock of the Danish Registry's new requirements and obtaining of documentation regarding existing accounts.	
January 2011		The Ministry of Climate, Energy and Building inserts a clause in the Danish Energy Agency's public service agreement that focus must remain on the Danish Registry and that the Agency must submit a status memorandum in June and in December 2011.
10 June 2011	<p>The Danish Energy Agency submits a status memorandum stating that, in December 2009 at the advice of the Attorney to the Danish Government, the Agency tightened its documentation requirements – also retrospectively – and that the Agency has given priority to obtaining documentation about person holding rather than operator holding accounts.</p> <p>The memorandum also states that the Danish Energy Agency tried to investigate the Danish Environmental Protection Agency's decision to waive the documentation requirement in 2007, but that this proved impossible, and that 'historical accounts turned out to be incompletely documented as regards account holder identity'.</p>	
29 June 2011		The Ministry of Climate, Energy and Building asks the Danish Energy Agency to amplify its description of the situation relating to historical documentation and to give an account of the segregation of duties between the Danish and the new joint EU registry.
1 July 2011	The Danish Energy Agency states that in response to Rigsrevisionen's examination, it has reviewed the Danish Environmental Protection Agency's cases and that the review shows that insufficient documentation has been recorded to substantiate systematic enforcement of the EU's documentation requirements.	

Table 3 shows that the Danish Energy Agency first briefed the Ministry of Climate, Energy and Building about the risk of VAT carousel fraud on 24 August 2009. The Agency also attached a memorandum from SKAT, according to which no documentation of identity information was available until July 2009 and that, consequently, it was not possible to definitely establish the identity of account holders for accounts opened prior to 17 July 2009.

Then, in a briefing to the Ministry on 1 December 2009, the Agency mentioned that as a result of the lack of documentation requirements it had failed to comply with the EU regulation. Finally, in a memorandum dated 15 December 2009 the Agency stated that it had become aware that in July 2009 the EU had also called on the Agency to require copies of passports retrospectively from existing account holders.

The table further shows that the Ministry of Climate, Energy and Building intervened in the emission trading registry case in December 2009, when the Ministry asked the Danish Energy Agency for a statement concerning the Danish Registry. Moreover, in December 2009, the Ministry asked the Agency to explain the division of responsibilities between SKAT and the Agency. In November 2010, the Ministry asked the Attorney to the Danish Government to assess Denmark's liability in damages towards other EU countries that might have suffered losses in connection with VAT carousel fraud related to the Danish Registry. Finally, in 2011, the Ministry demanded that the Agency submit status memoranda about the administration of the Danish Registry to the Ministry on a semi-annual basis. Similarly, the Ministry asked the Agency to amplify its description of the practice used to open person holding accounts during the period when the Danish Registry was placed in the Danish Environmental Protection Agency.

49. The Ministry of Climate, Energy and Building has stated that on the basis of the Danish Energy Agency's memorandum of August 2009 it had the impression that the problem was being addressed through the change of the VAT rules and the cooperation between the Danish Energy Agency and SKAT. The Ministry has also stated that the full scale of the problem did not become clear to the Danish Energy Agency until December 2009, and that the requisite focus on the existence of special problems in the Danish Registry was lacking. Correspondingly, Rigsrevisionen's examination of this issue has shown that until December 2009 the focus on the Danish Registry problems and the connection to VAT carousel fraud was inadequate.

IV. The Minister for Climate and Energy's briefing of the Folketing

Since December 2009, the Minister of Climate and Energy has kept the Folketing updated on the issues relating to the administration of person holding accounts in the Danish Emission Trading Registry. The Minister has also expressed regret regarding the administrative errors made. The Minister has provided correct information on the Danish Energy Agency's administration of the Danish Emission Trading Registry from 2008 onwards but has on several occasions been obliged to correct the information provided in respect to the Danish Energy Agency's collection of documentation. But the Minister has not provided correct information to the Folketing concerning the administration of the Danish Emission Trading Registry when it was placed under the Danish Environmental Protection Agency.

50. Rigsrevisionen's examination of the Minister for Climate and Energy's briefing of the Folketing has shown the following:

- The Minister for Climate and Energy briefed the Folketing about the administration of person holding accounts in the Danish Registry approx. 60 times during the period December 2009 - June 2011.
- The Minister for Climate and Energy has correctly informed the Folketing that the Danish Energy Agency did not require documentation until mid-2009, and that the Agency did not start collecting documentation retrospectively for existing accounts until December 2009, although the EU had called upon the Agency to do so in July 2009. Furthermore, the Minister has apologised to the Folketing that administrative errors were made.
- The Minister for Climate and Energy has frequently had to adjust information about the progress made by the Danish Energy Agency in improving the documentation for existing person holding accounts.
- The Minister for Climate and Energy did not provide correct information about the Danish Environmental Protection Agency's administration of the Danish Registry, i.e. it was not correct when the Minister stated that during the period January 2005 - mid-2007, opening person holding accounts with the Danish Registry required submission of a passport copy to document the applicant's identity. In addition, the Ministry of Climate, Energy and Building has been unable to document the information provided by the Minister that in mid-2007 – as part of simplifying administrative procedures – the Danish Environmental Protection Agency decided to derogate from the documentation requirement.

A. The information provided by the Minister for Climate and Energy about the Danish Energy Agency's administration

51. Since December 2009, the Minister for Climate and Energy has briefed the Folketing about fraud relating to CO₂ allowances and the Danish Energy Agency's administration of the Danish Registry, partly on the basis of section 20 questions, questions in connection with consultations and general questions, partly at the Minister's own initiative through statements from the Danish Energy Agency. The Minister has briefed the Folketing approx. 60 times.

52. Rigsrevisionen's review has shown that the information provided to the Folketing by the Minister for Climate and Energy about the Danish Energy Agency's administration of the Danish Registry is correct. The Minister has thus informed the Folketing that the Agency did not start requiring documentation until mid-2009. In addition, the Minister has stated that the Agency did not start collecting documentation retrospectively for existing accounts until December 2009, even though the EU had called upon the Agency to do so in as early as July 2009. Moreover, the Minister has apologised to the Folketing that the administrative errors were made.

53. However, the Minister for Climate and Energy has frequently had to adjust the information about the progress made by the Danish Energy Agency in terms of obtaining documentation for accounts opened prior to July 2009 and closing accounts that did not meet the documentation requirement.

In March 2010 the Minister informed the Folketing that in December 2009, the Danish Energy Agency had asked all account holders to submit documentation. Then, in January 2011, the Minister stated that the Agency had given priority to obtaining documentation for person holding accounts, and that 23 person holding accounts remained for which no documentation had been obtained because they were companies already known to the Agency. Finally, in June 2011, the Minister stated that the Agency had now discovered that after all, half of these accounts were not affiliated with companies known to the Agency. Therefore, the Agency ought to also have required documentation for these accounts and closed those that did not meet the new documentation requirement.

B. The information provided by the Minister for Climate and Energy about the Danish Environmental Protection Agency's practice during the period 2005-2007

54. Rigsrevisionen's examination has shown that the Minister for Climate and Energy did not provide correct information about the Danish Environmental Protection Agency's compliance with the documentation requirements of the EU regulation.

55. First, the information provided by the Minister for Climate and Energy about the Danish Environmental Protection Agency's compliance with the documentation requirements during the period January 2005 - mid-2007 was not correct.

In March 2010, the Minister informed the Folketing that during the period January 2005 - May 2007 the opening of person holding accounts with the Danish Registry required submission of a passport copy as documentation of the applicant's identity. However, Rigsrevisionen's examination has shown that neither in its guidelines nor in practice did the Danish Energy Agency consistently require copies of passports.

In May 2011, Rigsrevisionen reviewed the person holding accounts opened while the Danish Registry was placed under the Danish Environmental Protection Agency. The review showed that only in 6 per cent of the cases had the Danish Energy Agency obtained copies of passports in compliance with the EU regulation's documentation requirements.

The Ministry of Climate, Energy and Building has stated that in June 2011 - prompted by Rigsrevisionen's questions about the Danish Environmental Protection Agency's practice – the Agency chose to review all person holding accounts opened during the period January 2005 - February 2008. The review showed that copies of passports were available for 32, or 29 per cent, of the total of 111 accounts. However, the Danish Energy Agency has stated that as regards the majority of the 32 accounts only one copy of a passport was available although copies of passports for both authorised representatives were required. The Danish Energy Agency's review thus showed that only a few accounts met the EU regulation's documentation requirements.

Later on, in June 2011, the Minister informed the Folketing that the Danish Energy Agency had reviewed the documentation relating to accounts opened prior to mid-2007. The review showed that insufficient documentation had been recorded to substantiate systematic enforcement of EU's documentation requirements.

The Ministry of Climate, Energy and Building has informed Rigsrevisionen that the description in the June 2011 report to the Folketing of the outcome of the case review in June 2011 was worded in general terms because, after having provided inaccurate information to the Folketing in March 2010, the Danish Energy Agency did not wish to provide information once more which the Agency found was adequate, but which could later prove to be inadequate.

Moreover, the Ministry has stated that the Agency previously did not verify the information because the Agency was focusing on rectifying the administration of the Danish Registry. However, the Ministry has indicated to Rigsrevisionen that the review of the historical cases dating back to the time when the Danish Environmental Protection Agency was in charge ought to have been performed by the Danish Energy Agency earlier.

56. Second, the Ministry of Climate, Energy and Building has been unable to document the Minister for Climate and Energy's information that – as part of an administrative simplification procedure – the Danish Environmental Protection Agency changed its practice in mid-2007 so that when opening person holding accounts, the Agency only took into account the identity information submitted by the applicant, unless the application required otherwise. The Minister also stated that the administrative practice used by the Danish Environmental Protection Agency to open accounts was continued unchanged by the Danish Energy Agency.

As part of this examination Rigsrevisionen has asked both the Danish Environmental Protection Agency and the Danish Energy Agency to give an account of the basis for the decision to introduce the new practice after which, in June 2011, the Minister for Climate and Energy informed the Folketing that it had not been possible to add further details to the basis for deciding to simplify the administration in mid-2007. Accordingly, the Ministry of Climate, Energy and Building has been unable to substantiate the information provided by the Minister that – as part of administrative simplification – the Danish Environmental Protection Agency decided to waive the documentation requirement in mid-2007.

V. Scope of and opportunity to commit VAT carousel fraud

SKAT has identified a VAT loss for the Danish treasury of DKK 1.4 million, but according to the assessment made by Rigsrevisionen, there is a risk that in reality the extent of the VAT carousel fraud against the Danish treasury is greater. Moreover, it is suspected that VAT carousel fraud in the amount of at least DKK 1.4 billion has been committed against other EU government treasuries through the Danish Emission Trading Registry. However, it is not possible to determine the total value of the VAT carousel fraud in relation to CO₂ allowance trading in Europe at this point, because investigations are still ongoing and because the information is considered confidential in certain countries. The introduction of reverse charge for CO₂ allowance trading in April 2010 considerably reduced the potential for committing VAT carousel fraud against the Danish treasury.

57. Rigsrevisionen's examination of the scope of and opportunity to commit VAT carousel fraud has shown the following:

- SKAT has identified a VAT loss of DKK 1.4 million for the Danish treasury by examining trading patterns for accounts that, according to SKAT's assessment, had links to Denmark. Considering the options – particularly in the Danish Registry – to open accounts by using false identities, Rigsrevisionen finds it uncertain that SKAT has identified all accounts with links to Denmark for which there is a risk of VAT carousel fraud against the Danish government.
- SKAT has only had limited access to information about transactions made in foreign registries. This means it cannot be ruled out that VAT carousel fraud has also been committed against the Danish government via foreign registries and that the scope of VAT carousel fraud against the Danish state in reality is greater.
- It is not possible to calculate the overall VAT carousel fraud relating to CO₂ allowances in the EU, partly because the information is considered confidential in some countries and partly because investigations are still ongoing. In December 2009 when the VAT carousel fraud was at its peak, Europol estimated VAT fraud in the amount of DKK 38 billion to have been committed. However, the basis of this estimate is uncertain.
- SKAT's estimate of the scope of VAT carousel fraud against 14 EU country treasuries through the Danish Registry shows that until November 2010 it was suspected that VAT carousel fraud in the amount of no less than DKK 1.4 billion had been committed. Rigsrevisionen's examination has also shown that four countries' suspected VAT carousel fraud cases all involve accounts opened with the Danish Registry.

- Approx. 45 per cent of all person holding accounts opened in 2009 were opened with the Danish Registry, and approx. 40 per cent of CO₂ allowance transactions in Europe were made in summer 2009 via the Danish Registry. According to SKAT this may reflect that any VAT fraudsters were aware of or had experience of the Danish Registry's inadequate requirements.
- In August 2009 SKAT recommended that the Ministry of Taxation change the VAT rules to eliminate the potential for VAT carousel fraud. The rules regarding reverse charge for CO₂ allowance trading took effect in April 2010, after the EU had changed its VAT rules. This considerably reduced the potential for committing VAT carousel fraud against the Danish treasury.

A. Scope of VAT carousel fraud relating to CO₂ allowances

58. Rigsrevisionen has examined SKAT's identification of VAT carousel fraud against the Danish government and tried to obtain information about the overall scope of VAT carousel fraud in the EU. In addition, Rigsrevisionen has attempted to determine the scope of the VAT carousel fraud committed in other EU countries with links to the Danish Registry.

SKAT's identification of VAT carousel fraud against the Danish government

59. SKAT has identified VAT carousel fraud by examining the trading pattern for those accounts in the Danish Registry which according to SKAT's assessment had links to Denmark and thus presented a potential risk for the Danish treasury.

To commit VAT carousel fraud against the Danish government fraudsters must have a Danish VAT number. Because account holders were not required to disclose their VAT numbers until July 2009 when opening accounts with the Danish Registry (and for existing accounts not until December 2009), SKAT had to try to track down whether account holders were associated with a Danish VAT number on the basis of the Danish Registry's sparse and dubious information. SKAT has stated that it was readily able to find the VAT numbers of account holders having provided a correct company name to the Danish Registry and that as regards the other accounts holders SKAT tried to identify their VAT numbers on the basis of the names, addresses and telephone numbers given to the Danish Registry. Rigsrevisionen finds that – considering the option to open accounts using false identities – there is a risk that SKAT has not uncovered all accounts actually associated with a Danish VAT number.

In addition, it has been difficult for SKAT to trace and analyse Danish companies and individuals having opened accounts in other EU countries because SKAT had no access to foreign emission trading registries. However, SKAT has stated that via the EU's central registry, it succeeded in identifying 18 accounts in foreign registries with Danish links. However, because account holders intending to commit fraud can be assumed to have tried to cover up their national affiliation, Rigsrevisionen is of the opinion that there is a risk that SKAT has not uncovered all account holders in foreign registries with Danish VAT numbers.

60. In August 2009 SKAT identified two cases with a loss risk of DKK 3.8 million for the Danish treasury. The transactions were made by UK players having set up Danish companies with Danish VAT numbers. Apparently, SKAT was familiar with these players from its other monitoring activities.

61. One of these cases was forestalled by quickly freezing the VAT amount, whereas a loss of around DKK 1.4 million was suffered in the other. SKAT has submitted the latter case to the police for further investigation.

This case concerned a total of 13 person holding accounts, nine of which originate in the Danish Registry and four in foreign emission trading registries. A review of the nine accounts opened in August 2009 and since closed shows that documentation of the identity of four of the nine account holders was missing although required by the Danish Energy Agency since July 2009. This example shows that fraud was not solely being committed from accounts without documentation and that, consequently, VAT carousel fraud may relate to accounts both with and without documentation.

VAT carousel fraud throughout the EU

62. In September 2011 Rigsrevisionen asked the Supreme Audit Institutions in all EU countries to obtain information about the scope of VAT carousel fraud in the countries concerned. However, not all institutions have been in a position to provide a full answer because in some countries the information is subject to a confidentiality obligation, and some cases are still being investigated.

Accordingly, Rigsrevisionen has been unable to determine the overall scope of VAT carousel fraud relating to CO₂ allowances in the EU.

63. The only available overall estimate of VAT carousel fraud relating to CO₂ allowances in the EU is thus Europol's estimate of a total VAT loss of DKK 38 billion incurred by the treasuries of the EU countries. Europol's estimate was made in December 2009 when the VAT carousel fraud was at its peak. Later on, through the Danish Ministry of Justice, SKAT has asked Europol to provide the basis of its estimate, but it has proved impossible to have Europol disclose which countries have been exposed to fraud and which emission trading registries were used for the trading.

VAT carousel fraud in the EU with links to the Danish Registry

64. Several of the questions addressed by members of the Folketing to the Minister for Climate and Energy concerned the extent to which VAT carousel fraud in the EU originates in particular from person holding accounts opened with the Danish Registry. Further to a joint consultation with the Minister for Climate and Energy and the Minister for Taxation in June 2010 SKAT asked 14 countries with which SKAT had previously exchanged information to give details on the scope of VAT carousel fraud related to the Danish Registry. The 14 countries are Lithuania, Greece, France, Norway, Sweden, Portugal, Luxembourg, Italy, the UK, Germany, Spain, the Netherlands, Belgium and the Czech Republic. Five of the 14 countries stated that police investigations in some of the cases had been initiated, but to SKAT's knowledge no judgments had been pronounced in any of the EU countries at the time.

Eleven of the 14 countries reported possible loss amounts and the suspected total amount of VAT carousel fraud committed through the Danish Registry up to and including November 2010 was approx. DKK 1.4 billion. However, Germany and France reported no amount of loss, although they were the countries accounting for the bulk of SKAT's exchange of information about accounts. The total loss amount can therefore be assumed to be higher.

As far as Spain is concerned the total loss incurred by the Spanish treasury via the Danish Registry amounted to DKK 897 million, and for the other countries reporting about the number of accounts under suspicion, losses were suspected to have been incurred on approx. 50 per cent of the accounts recorded in the Danish Registry.

On 26 November 2010, the Minister for Taxation presented the findings of SKAT's examination to the Folketing and in this connection stated that individual countries may have been associated with several accounts in the Danish Registry that do not form part of SKAT's findings.

Europol is the police unit of the European Union. The object of Europol is to assist Member State authorities in preventing international crime, in particular cross-border crime.

VAT carousel fraud in Norway via the Danish Registry

One country in which the government has brought charges for VAT carousel fraud via the Danish Registry is Norway. The Norwegian government charged seven persons in January 2012 for VAT evasion of NOK 160 million in connection with trade in CO₂ allowances.

65. Rigsrevisionen's own examination through Supreme Audit Institutions in other EU countries supports the picture that account holders in the Danish Registry had committed large-scale VAT carousel fraud against other European treasuries. Among the ten countries that have been able to respond to Rigsrevisionen's questions about whether VAT carousel fraud with links to the Danish Registry is suspected, three have indicated that all their cases had links to the Danish Registry. This means that four EU countries (the three mentioned above and Spain) have stated that all cases of VAT carousel fraud relate to the Danish Registry.

66. The examination has also shown that many transactions were made to and from the Danish Registry in the period during which VAT carousel fraud in the EU was at its peak. In December 2009 Europol thus stated that the French and Danish emission trading registries ranked among those with particularly large CO₂ allowance turnovers in summer 2009. This picture is confirmed by figures issued by the European Commission's central European registry, which shows that 40 per cent of all CO₂ allowance trading in Europe during the period May-July 2009 took place through the Danish Registry.

67. Finally, the examination has shown that the Danish Registry ranked among those registries having opened the largest number of person holding accounts in 2009; indeed, a calculation by the European Commission's central European registry shows that the approx. 1,000 person holding accounts opened through the Danish Registry in 2009 equal to approx. 45 per cent of the accounts opened throughout the EU during the same period.

68. SKAT has informed Rigsrevisionen that one reason that the Danish Registry was among those with the highest number of person holding accounts in 2009 may have been that potential VAT fraudsters had good knowledge of or experience in dealing with the Danish Registry.

B. SKAT's initiatives to reduce the potential for VAT carousel fraud

69. SKAT has tried in various ways to reduce the potential for VAT carousel fraud. First, SKAT has cooperated intensively with the Danish Energy Agency about the Danish Registry. Second, SKAT took the initiative to amend the VAT legislation so that reverse charge applies to CO₂ allowance trading. In addition, SKAT has participated in two international working groups engaged in revealing international CO₂ allowance fraud and establishing a multilateral agreement on the swift exchange of suspicious allowance transactions.

Cooperation with the Danish Energy Agency

70. According to the Act on CO₂ Allowances SKAT has access to information from the Danish Registry, including information on allowance trading. Initially, on the basis of specific enquiries, in part from foreign countries, SKAT managed the scheme by obtaining control information from the Danish Energy Agency for the purpose of checking allowance trading. At a meeting in June 2009 after becoming aware in May that VAT carousel fraud involving CO₂ allowances was being committed, SKAT agreed with the Danish Energy Agency to give SKAT direct online access to the Danish Registry. This access was established in September 2009.

Apart from the Belgian authority, SKAT was the only tax authority at the time with access to its national emission trading registry. Since then most other EU countries have followed suit. SKAT believes its options for checking VAT carousel fraud relating to CO₂ allowances have been better than those available to other EU countries that did not – particularly to begin with – have similar access to their national emission trading registries. SKAT has thus had the opportunity to monitor allowance trading and check Danish companies that acquire allowances from foreign allowance dealers.

71. In addition, SKAT and the Danish Energy Agency cooperated on tightening the documentation requirements for opening accounts, thereby enhancing the options to uncover whether companies had committed VAT carousel fraud.

SKAT thus proposed a number of control measures for the Danish Energy Agency to take when allocating person holding accounts. First, SKAT proposed a number of new documentation requirements that the Danish Energy Agency could require applicants to comply with. Immediately – or as soon as authority had been provided – the Agency launched these documentation requirements. Second, SKAT suggested that the Danish Energy Agency demand payment by applicants before accounts were opened and that the Agency start logging IP addresses. The Agency also complied with these proposals. Finally, SKAT proposed a number of ways to check applicants' identity information. The Danish Energy Agency did not implement these proposals, but chose instead to require certification of the documents. By doing so the Agency adhered to the opinion of the Attorney to the Danish Government that basically the EU regulation does not impose a duty on the Danish Energy Agency to independently examine the information and documents received by the Agency in connection with account creation.

Moreover, in March 2010 SKAT and the Danish Energy Agency entered into a cooperation agreement on combating economic crime.

Exemption from the EU directive on the system of VAT

Member states may apply for permission from the EU to introduce special measures that derogate from the provisions of the EU directive on the system of VAT if the purpose is to counter VAT carousel fraud. However, obtaining such a permission normally takes six months.

Reverse charge

Normally the seller is liable to settle the VAT, whereas the buyer – depending on his right of deduction – may deduct the VAT. Reverse charge means that VAT payments and VAT deductions must be made by the same company.

Changing VAT rules

72. The European tax authorities first became aware of the fact that VAT carousel fraud was being committed in relation to CO₂ allowances in May 2009. VAT carousel fraud was particularly pronounced in France and the UK during the summer and both countries therefore chose in different ways to abolish VAT on allowance trading without prior approval by the EU.

73. On 30 August SKAT recommended to the Minister for Taxation that Denmark requested the EU to approve an amendment of the Danish VAT rules to eliminate the risk of VAT carousel fraud in Denmark.

74. In October 2009, the Minister for Taxation proposed a bill to introduce reverse charge in connection with CO₂ allowance trading. At the same time, the Ministry of Taxation asked for the European Commission's permission to derogate from the provisions of the EU directive on the system of VAT. The Ministry's request was never answered because in the meantime, the EU countries had adopted an urgent proposal to amend the directive on the system of VAT, giving Member States the opportunity to introduce reverse charge. The provision on reverse charge for CO₂ allowance trading could thus take effect in Denmark on 9 April 2010.

75. The introduction of reverse charge for CO₂ allowance trading in Denmark has considerably reduced the potential for committing VAT carousel fraud because transactions between Danish VAT-registered companies are no longer subject to the regular collection and settlement of VAT to SKAT. VAT is only payable to SKAT when the CO₂ allowance is consumed.

76. SKAT has stated that at present eight EU countries have not yet introduced reverse charge. When all EU countries have introduced reverse charge, according to SKAT, it will no longer be possible to commit VAT fraud relating to CO₂ allowances.

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Appendix 1. Glossary

Allocation plan	National allocation plans describe how individual Member States meet their reduction commitments for the period 2008-2012 under the Kyoto Protocol and the EU Burden Sharing Agreement. The plan specifies how many allowances Denmark will allocate to its plants during the period concerned.
Authorised representative	Person authorised to represent an account holder. When applying for a person holding account with the Danish Registry applicants must state a primary (PAR) and a secondary (SAR) authorised representative.
Burden Sharing Agreement	The EU as a whole has assumed an obligation to reduce its CO ₂ emissions by 8 per cent during the period 2008-2012 from the level in 1990. In order to reach this reduction target, in 1998 the EU Member States entered into a political agreement in which emissions were fixed individually for each country and allowance was made for each member country's national circumstances, including greenhouse gas emission, reduction potential and the country's level of economic development.
Certification	Written confirmation from the authority issuing documentation, e.g. citizen service centres in municipalities, an embassy, a consulate, a court office, an independent lawyer in the country in which the original document was issued or an independent notary in the country in which the original document was issued. Certification must have been made no later than three months before submission of an application for an account.
CO ₂	Greenhouse gas released when organic material burns – also known as carbon dioxide.
CO ₂ allowance	Electronic unit with a unique number that serves as basis for permission to emit 1 tonne of CO ₂ .
CO ₂ credits	Companies may emit more CO ₂ – than their emission permit entitles them to – by implementing climate projects in foreign countries in accordance with the Kyoto Protocol. These projects are named Joint Implementation (JI) and Clean Development Mechanism (CDM) projects. CO ₂ credits are available in electronic form from the Danish Registry and may be bought and sold in the same way as CO ₂ allowances. JI credits are obtained by implementing projects in industrialised countries, while CDM credits are acquired by implementing projects in developing countries.
CO ₂ reduction commitments	The Kyoto Protocol sets binding reduction targets for the industrialised countries during the period 2008-2012 relative to 1990. Under the Kyoto Protocol Denmark has made a commitment to reduce national greenhouse emissions by 21 per cent during the period 2008-2012 relative to the 1990 level, see the Burden Sharing Agreement.
Directive	A directive is binding on any EU country at which it is aimed. However, it is up to the national authorities to decide the form and means of implementation, e.g. whether it should be implemented by law or executive order.
Emission allowance trading ('Allowance trading')	Commercial trading in CO ₂ emission permits (CO ₂ emission allowances). Companies not using all their allowances may sell any surplus allowances in the CO ₂ market. Companies that need to use more energy and thus to discharge more CO ₂ than provided for by their allowances may make up the shortfall by buying allowances in the CO ₂ market. Transactions are electronic and made between accounts in the emission trading registries of one or more countries.
Emission permit	Plants or companies subject to the emission trade scheme must obtain a permit to discharge CO ₂ from the Ministry of Climate, Energy and Building. A permit identifies the operator of the production unit, the plants comprised and the sources discharging the CO ₂ .
Emission trading directive	EU directive regulating greenhouse gas emissions in the EU thus representing the fulfilment of the EU's climate commitments under the Kyoto Protocol.
Emission trading exchange	Exchange for trading emissions and credits. Emission trading exchanges exist on the internet and are run by private individuals.

Emission trading registry	Electronic registry for storing CO ₂ allowances. The Danish Registry keeps account of changes in the number of company allowances and registers changes in the number of allowances held by private individuals.
Emission trading scheme	The emission trading scheme has been introduced to meet the EU's commitment to reduce emissions in compliance with the Kyoto Protocol. The scheme is aimed at limiting CO ₂ emissions as cost-effectively as possible while providing the greatest possible flexibility to participating companies. The scheme includes all 27 EU Member States and numbers more than 11,000 companies, of which approx. 375 are Danish companies.
EU's emission trading registry system	Countries having ratified the Kyoto Protocol must set up an emission trading registry. The EU automatically checks transactions between individual emission trading registries to ensure that they comply with the rules.
EU's emission trading scheme	The largest of its kind covering around 11,000 companies in the EU Member States. Each Member State allocates a number of allowances to the companies. Together, these allowances correspond to less than the companies' historical emissions. The emission trading scheme is intended to promote cost-efficient CO ₂ reduction for the EU as a whole.
Europol	The police unit of the European Union whose objective is to assist Member State authorities in preventing international crime.
Greenhouse gases	Greenhouse gas is a gas that contributes to the greenhouse effect and in this way to changing the climate of the Earth. The Kyoto Protocol concerns the emission of six greenhouse gases, including CO ₂ , which originate primarily from burning fossil fuels.
IP addresses (Internet Protocol address)	A unique number used by network units (e.g. computers) to communicate with each other. Activities related to an IP address can be registered (logged) and used to investigate VAT carousel fraud, hacker and phishing attacks.
IT security requirements	Standards and precautions to secure the daily operation of IT systems, including protection of the system against unauthorised access and use. The EU registry regulation requires emission trading registries to comply with this.
Kyoto Protocol	International agreement on reducing the use of greenhouse gases adopted in Kyoto on 11 December 1997 by UNFCCC (United Nations Framework Convention on Climate Change).
Master data	Personal and company data, e.g. name, address, telephone number and e-mail.
Online access	Electronic access to registry data, etc. Online access may have the advantage that data are received promptly and may be extracted for further processing.
Operator	An owner of one or more plants or companies encompassed by the emission trading scheme. All companies comprised by the emission trading scheme must have an operator holding account at the Danish Registry.
Operator holding accounts	Allocated to plants or companies subject to the emission trading scheme needing to use the account to comply with their reduction commitments under the Danish Act on CO ₂ Allowances. The allowances must be surrendered to the Danish Registry as CO ₂ is emitted from the plants or companies.
Person holding accounts	A type of account in emission trading registries that may be opened by companies and private individuals not subject to the emission trading scheme for the purpose of allowance and credits trading.
Phishing attacks	Attacks where criminals use electronic communication to try to get access to personal data from users of a system by abusing the name of an authority, logo and website design, etc. Personal data may be, for example, user names, passwords or credit card information.
Registry administrator	The administrator responsible for a national emission trading registry. In Denmark, the Danish Energy Agency is the registry administrator.
Regulation	A regulation is of general application. It is binding in its entirety and applies immediately in any EU Member State.

Reverse charge	Normally the seller is liable to settle the VAT, whereas the buyer – depending on his right of deduction – may deduct the VAT. Reverse charge means that VAT payments and VAT deductions must be made by the same company.
Statement from bank	Statement from a bank located in an EEA country (European Economic Area) confirming that the company holds an open bank account in this bank. The statement must include the name, title and other relevant contact information.
Transaction	Transfer of allowances between accounts within the same registry or other emission trading registries for the purpose of trading, cancellation, withdrawal, etc.
UN's emission trading registry system	Countries having ratified the Kyoto Protocol have received a number of emission permits (allowances) for the period 2008-2012. Because the Kyoto Protocol enables the buying and selling of allowances each country is obligated to set up an emission trading registry to keep account of each country's number of allowances. The UN checks all transactions between national registries to ensure that they comply with rules adopted pursuant to the Kyoto Protocol.
VAT carousel fraud	Particular type of VAT fraud. The fraud is rendered possible by the VAT exemption that applies to goods crossing the Community's internal borders and is committed by several companies trading with each other across national borders in the Community with a view to evading VAT payments.
VAT fraud	VAT evasion that may be committed in various ways, e.g. by incorrect VAT declaration to SKAT or other fraudulent financial reporting.
