

SUPPLEMENTARY DETERMINATION BY THE SECRETARY OF STATE

IN THE APPEAL OF

PREMIER FOODS GROUP LIMITED

And

THE ENVIRONMENT AGENCY

**Under the GREENHOUSE GAS EMISSIONS TRADING SCHEME REGULATIONS
2005**

1. By a determination notified to the appellant on 2nd December 2010 ('the Determination'), the Secretary of State for Energy and Climate Change ('the Secretary of State') dismissed an appeal made by Premier Foods Group Limited ('Premier') against a revocation notice and notice of withholding allowances dated 17th April 2009 and served on the appellant by the Environment Agency. The appeal was made under regulation 32(2) of the Greenhouse Gas Emissions Trading Scheme Regulations 2005 ('the Regulations').
2. Under regulation 32(10) of the Regulations, the appeal had the effect of suspending the operation of the notice, but only pending the final determination of the appeal. In a letter to the Department of Energy and Climate Change dated 6th January 2010, and copied to the solicitors acting for Premier, the Environment Agency pointed out that:

"As a result of the determination, the revocation notice issued to Premier Foods Group Ltd (Premier) dated 17th April 2009 stands and, within that notice, Premier are required to surrender their 2008 allocation of allowances by 20th June 2009. Since the appeal has been dismissed, Premier are required to comply with the requirement to surrender the allowances but clearly, the 20th June 2009 has already passed."

3. In determining the appeal the Secretary of State has the power under regulation 32(7) to affirm or vary the revocation notice. The operative part of the Determination, while dismissing the appeal, does not state whether the notice is to be affirmed or varied. If the notice were simply to be affirmed, the effect of the Determination would be to impose an immediate obligation to surrender the allowances. As the Environment Agency suggest in their letter, it would instead be reasonable to give the appellant sufficient time to comply

with that obligation. The Environment Agency suggest that a period of one month from the date of publication of any supplementary determination would be appropriate.

4. The Secretary of State considers that the appellant should be given a period of four weeks from the date of this supplementary determination to comply with its obligation to surrender allowances; and the revocation notice should be varied accordingly pursuant to regulation 32(7)(c) of the Regulations.

Supplementary determination

The revocation notice dated 17th April 2009 is accordingly varied, by the substitution of the date "1/04/2011" for the date "20/06/2009" in section 4 of the Schedule to the Notice.



Niall Mackenzie

Head, National Carbon Markets, Dept. of Energy and Climate Change,
for the Secretary of State for Energy and Climate Change.

4th March 2011