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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 07.07.2004
C(2004) 2515/6 final

COMMISSION DECISION

of 7 July 2004

concerning the national allocation plan for the allocation of greenhouse gas emission allowances notified by Denmark in accordance with Directive 2003/87/EC of the European Parliament and of the Council

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(Only the Danish text is authentic)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC¹, and in particular Article 9(3) thereof,

Whereas:

- (1) The national allocation plan of Denmark for the period 2005-2007, developed under Article 9(1) of Directive 2003/87/EC, was notified to the Commission on 31 March 2004 and registered on 5 April 2004. Denmark submitted additional information by letter registered on 4 June 2004 in reply to questions from the Commission. In addition, Denmark submitted further information completing the notified plan by a letter registered on 17 June 2004 and a letter received on [29] June.
- (2) The Climate Change Committee has considered the national allocation plan and called on the Commission *inter alia* to closely examine the consistency of Denmark's anticipated path to reaching its target under Council Decision 2002/358/EC of 25 April 2002 concerning the approval on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder² with criterion 1 and to make certain that the intended government use of the Kyoto Protocol's mechanisms is substantiated through the state of advancement of relevant legislation and implementing provisions in the plan. The Climate Change Committee advised that the Commission should consider the uncertainty relating to the determination of base year emission levels under that Decision. The views of the Climate Change Committee have been taken into account.
- (3) The national allocation plan, including the total quantity of allowances stated therein, has been evaluated in accordance with the Commission Communication on guidance

¹ OJ L 275, 25.10.2003, p. 32.

² OJ L 130, 15.5.2002, p. 1.

to assist Member States in the implementation of the criteria listed in Annex III to Directive 2003/87/EC³.

- (4) The Commission recalls that Denmark expressed assumptions concerning base year emissions and common and coordinated policies and measures in a statement to the minutes to the Council Conclusions of 16-17 June 1998. It notes that the Council and the Commission made a joint statement at the time of adoption of Decision 2002/358/EC that the respective emission levels allocated to the Community and to each Member State shall include any necessary adjustments in order to ensure that the sum of the assigned amounts calculated for the individual Member States equals the aggregate assigned amount calculated for the Community, taking into account the assumptions relating to base year emissions reflected in those minutes.
- (5) In assessing the national allocation plan in respect of the consistency of Denmark's anticipated path to reaching its target under Decision 2002/358/EC, the Commission has taken into account both the joint statement and the confirmation by Denmark in its letter registered on 17 June 2004 that if, contrary to its expectations, it is not compensated for its problem of low emissions in the base year 1990, further reductions will be accomplished by Denmark and therefore this decision is without prejudice to the determination of emission levels allocated to the Community and to each Member State in terms of tonnes of carbon dioxide equivalent in accordance with Article 3 of Decision 2002/358/EC.
- (6) The Commission has assessed whether the plan unduly favours certain undertakings or activities contrary to the requirements of the Treaty. On the basis of the information provided by the Member State, the Commission considers at this stage that the measure confers a selective advantage to certain undertakings which has the potential to distort competition and affect intra Community trade. The measure at this stage however does not appear to be imputable to the Member State and to entail the use of State resources to the extent that 5% of allowances are sold at market conditions and banking is not allowed.
- (7) The reports on the implementation of policies and measures and the use of the Kyoto Protocol's mechanisms submitted by Member States pursuant to Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol⁴ are taken into account for evaluation of the national allocation plans pursuant to criterion 2 of Annex III to Directive 2003/87/EC,

HAS ADOPTED THIS DECISION:

Article 1

No objections are raised to the national allocation plan of Denmark with regard to the criteria of Annex III to the Directive or with regard to Article 10 thereof.

³ COM(2003)830 final

⁴ OJ L 49, 19.02.2004, p. 1.

Article 2

1. The total quantity of allowances to be allocated by Denmark according to its national allocation plan to installations listed therein and to new entrants for the period referred to in Article 11(1) of Directive 2003/87/EC shall not be exceeded.
2. The national allocation plan may be amended without prior acceptance by the Commission if the amendment consists in modifications of the allocation of allowances to individual installations within the total quantity resulting from improvements to data quality.
3. Any amendments to the national allocation plan other than those referred to in paragraph 2 of this Article shall be notified to the Commission and accepted in accordance with Article 9(3) of Directive 2003/87/EC.

Article 3

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 7 July 2004