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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.12.2004  
C(2004)5285

**COMMISSION DECISION**

**of 27 December 2004**

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

Draft

## COMMISSION DECISION

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

(Only the Spanish 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/EC<sup>1</sup>, and in particular Article 9(3) thereof,

Whereas:

- (1) The national allocation plan of Spain for the period 2005-2007, developed under Article 9(1) of Directive 2003/87/EC, was notified to the Commission on 9 August 2004. Spain submitted additional information completing the notified plan by letter registered on 16 September 2004 in reply to questions from the Commission dated 28 July 2004 and by letter dated 30 November 2004 and letter dated 3 December 2004.
- (2) The Climate Change Committee has considered the national allocation plan and has urged the Commission *inter alia* to closely examine Spain's anticipated path to reaching its target under Decision 2002/358/EC, to compare the proposed allocation to Spain's projections and measures for the non-trading and trading sectors, including in particular assumptions on growth rates, and urged the Commission to compare Spain's allocation to recent historic and projected emissions and to examine the justification for deviations from recent historic and projected emissions for the trading sector. In view of the importance of preserving the integrity of the internal market and avoiding undue distortions of competition the Climate Change Committee urged the Commission to closely examine the admissibility under criterion 10 of the coverage of activities in the plan. The Climate Change Committee also urged the Commission to carefully examine the definition of new entrants in the plan and the access rules to the new entrant reserve. 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

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<sup>1</sup> OJ L 275, 25.10.2003, p. 32.

to assist Member States in the implementation of the criteria listed in Annex III to Directive 2003/87/EC<sup>2</sup>. Certain aspects of the national allocation plan have been found incompatible with criterion 10.

- (4) In assessing the national allocation plan in respect of criteria 1 of Annex III to Directive 2003/87/EC, the Commission takes into account information in the letter of Spain dated 30 November 2004 and the letter dated 3 December 2004 regarding the actions taken in respect of Spain's use of the Kyoto Protocol's mechanisms.
- (5) Pursuant to criterion 5, the Commission has assessed whether the plan unduly favours certain undertakings or activities contrary to the requirements of the Treaty, in particular Articles 87 and 88 thereof. On the basis of the information provided by the Member State, the Commission considers that any potential aid is likely to be compatible with the common market should it be assessed in accordance with Article 88(3) of the Treaty.
- (6) The list of installations set out in the national allocation plan is incomplete and therefore contravenes criterion 10 since it does not include all combustion installations with a rated thermal input of more than 20 MW, to which Directive 2003/87/EC applies.
- (7) In order to bring the national allocation plan in conformity with the criteria listed in Annex III to Directive 2003/87/EC, the plan should be amended. The Commission should be notified of the amendments made to the plan by Spain in accordance with this Decision in order to include all combustion installations with a rated thermal input of more than 20 MW.
- (8) As implementation of amendments to the plan will not affect the allocation of allowances by Spain to installations listed in its national allocation plan other than those referred to in Article 2, Spain should be able to issue allowances to installations other than those referred to in Article 2 during the period referred to in Article 11(1) in advance of the implementation of such amendments.
- (9) 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 Protocol<sup>3</sup> 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*

The aspect of the national allocation plan of Spain concerning the list of installations, which fails to specify all combustion installations with a rated thermal input of more than 20MW, to which Directive 2003/87/EC applies, is incompatible with criteria 10 of Annex III to Directive 2003/87/EC.

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<sup>2</sup> COM(2003)830 final

<sup>3</sup> OJ L 49, 19.02.2004, p. 1.

## *Article 2*

Provided that an amendment to the national allocation plan is made, to include all combustion installations with a rated thermal input of more than 20MW, to which Directive 2003/87/EC applies, and the quantities of allowances intended to be allocated to them; those quantities being determined in accordance with the general methodologies stated in the national allocation plan, and that amendment is notified to the Commission, no objections shall be raised to the national allocation plan.

## *Article 3*

1. The total quantity of allowances to be allocated by Spain according to its national allocation plan to installations listed therein shall not be exceeded, nor shall the total quantity to be allocated to new entrants be exceeded, taking into account the amendments referred to in Article 2.

2. The national allocation plan may be amended if the amendment consists in modifications of the allocation of allowances to individual installations within the total quantity to be allocated to installations listed therein resulting from improvements to data quality.

## *Article 4*

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 27 December 2004

*For the Commission*