



EUROPEAN COMMISSION

Brussels, XXX
[...] (2011) XXX draft

COMMISSION DECISION

of XXX

concerning the unilateral inclusion of additional greenhouse gases and activities by Italy in the scheme for greenhouse gas emission allowance trading within the Union pursuant to Article 24 of Directive 2003/87/EC of the European Parliament and of the Council

(Only the Italian text is authentic)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 24(1) thereof,

Whereas:

- (1) On 24 June 2011, Italy submitted an application for the unilateral inclusion of nitrous oxide (N₂O) emissions associated with the production of nitric acid and adipic acid in the EU Emission Trading Scheme pursuant to Article 24 of Directive 2003/87/EC.
- (2) The requested inclusion concerns two installations in the sense of Article 3 (e) of Directive 2003/87/EC, where one installation carries out both the production of nitric acid and adipic acid, and the other installation only carries out the production of nitric acid. The requested period for the unilateral inclusion of nitrous oxide (N₂O) emissions associated with the production of nitric acid and adipic acid is from 1 April 2011 until 31 December 2012.
- (3) In respect of nitrous oxide (N₂O) from the production of nitric acid, Italy has proposed to apply the following declining benchmark: 0.465 allowances/t nitric acid for the year 2011, and 0.403 allowances/t HNO₃ for the year 2012. This benchmark would be applied to the average production level of the three years within the period 2005-2010 with the highest production of nitric acid within the installation concerned. No growth factor would be used, nor a differentiation of the benchmark value based on the abatement technology for nitrous oxide (N₂O) was proposed.
- (4) In respect of nitrous oxide (N₂O) from the production of adipic acid, Italy has proposed to apply the benchmark of 6.37 allowances/t adipic acid. This benchmark value would be applied to the average production level of the three years within the period 2005-2010 with the highest production of adipic acid within the installation

¹ OJ L 275, 25.10.2003, p. 32.

concerned. No growth factor would be used, nor a differentiation of the benchmark value based on the abatement technology for nitrous oxide (N₂O) was proposed.

- (5) The benchmark value proposed by Italy for incumbent installations producing adipic acid reflects the average specific emission value of the three best performing installations in the EU. Specific emission values for the installations were collected within the framework of deriving the benchmarks pursuant to Commission Decision of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC². The benchmark value is derived for products, rather than for inputs, implying that it is independent of technology, and takes into account emission levels achieved by the best performing installations in the Union in the years 2007 and 2008. For new entrants producing adipic acid, the proposed benchmark value corresponds to the benchmark value for adipic acid provided in the Commission Decision of 27 April 2011.
- (6) Further to Italy's application, installations that commence the production of nitric acid after 30 March 2011 and before the end of 2012 (new entrants) would be allocated emission allowances for the remaining period of the unilateral inclusion using a benchmark equal to 0.0372 allowances/t nitric acid. New entrants for the adipic acid production would be allocated emission allowances using a benchmark equal to 2.79 allowances/t adipic acid. Capacity increases would not be considered eligible for additional allowances. Allowances allocated to new entrants would come from the general reserve for new entrants provided for in the Italian National Allocation Plan for the period 2008-2012, meaning that no separate reserve for new entrants producing nitric acid or adipic acid would be created.
- (7) As a result, a total of 1 287 447 allowances would be issued and allocated to both incumbent installations for the period of inclusion (from 1 April 2011 until 31 December 2012).
- (8) Further to Italy's application, the installations unilaterally included in the Union scheme would not be allowed to use CERs and ERUs in the period of their unilateral inclusion pursuant to Article 11a of Directive 2003/87/EC.
- (9) On respectively 17 December 2008, 10 December 2009 and 6 June 2011, the Commission approved applications submitted by the Netherlands, Austria and the United Kingdom of Great Britain and Northern Ireland for the unilateral inclusion of nitrous oxide (N₂O) emissions associated with the production of nitric acid in the Union scheme, as an additional gas and activity³. The application submitted by Italy proposes the same benchmarks, both for incumbents and for new entrants.

² Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for the harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council. OJ L 130, 17.5.2011, p. 1.

³ Commission Decisions of 17 December 2008, 10 December 2009 and 6 June 2011 concerning the unilateral inclusion of additional greenhouse gases and activities by the Netherlands, Austria and the United Kingdom of Great Britain and Northern Ireland in the Community emissions trading scheme pursuant to Article 24 of Directive 2003/87/EC of the European Parliament and of the Council, notified under document numbers C(2008) 7867, C(2009) 9849 and C(2011) 3798.

- (10) The unilateral inclusion of the production of nitric acid and adipic acid is consistent with the policies and measures set out in Italy's National Allocation Plan and will assist Italy to achieve its emissions reduction target under the Kyoto Protocol to the United Nations Framework Convention on Climate Change.
- (11) The monitoring and reporting system to be applied by Italy to the included gas and activities as of 1 April 2011 complies with the criteria set out in Commission Decision 2007/589/EC⁴.
- (12) The Commission notes that the implementation of this unilateral inclusion may imply State aid pursuant to Article 107 TFEU. The Commission has carried out a preliminary assessment of the compatibility of this unilateral inclusion with Article 107 TFEU. At this preliminary stage, the Commission has no indication that State aid potentially involved may be found incompatible with the internal market should it be assessed in accordance with Articles 107 and 108 of the TFEU.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee established by Article 9 of Decision 280/2004/EC of the European Parliament and of the Council concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol⁵.

HAS ADOPTED THIS DECISION:

Article 1

The application submitted by Italy for the unilateral inclusion of the emission of nitrous oxide (N₂O) associated with the production of nitric acid and adipic acid in the Union scheme, as an additional gas and additional activities, is approved.

Article 2

This decision shall apply as of 1 April 2011.

Article 3

This Decision is addressed to Italy.

⁴ Commission Decision of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council, OJ L 229, 31.8.2007, p. 1, amended by Commission Decision of 17 December 2008 amending Decision 2007/589/EC so as to include monitoring and reporting guidelines for emissions of nitrous oxide, OJ L 24, 28.1.2009, p. 18.

⁵ OJ L 49, 19.02.2004, p.1.

Done at Brussels,

*For the Commission
Connie Hedegaard
Member of the Commission*