



EUROPEAN COMMISSION

Brussels, 19.04.2010

COMMISSION DECISION

of 19 April 2010

concerning the national allocation plan for the allocation of greenhouse gas emission allowances notified by Poland on 8 April 2010 in accordance with Directive 2003/87/EC of the European Parliament and of the Council

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(Only the Polish text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union (hereinafter TFEU),

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) On 11 December 2009, the Commission took the Decision C(2009)10153 final rejecting the national allocation plan for the period 2008 to 2012, developed under Article 9(1) of Directive 2003/87/EC, which was notified to the Commission by letter dated 5 March 2009. Poland notified a new national allocation plan on 8 April 2010 (hereinafter the national allocation plan).
- (2) The Climate Change Committee established under Article 9 of 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 Protocol² considered on 22 September 2006 the earlier national allocation plan and called on the Commission to assess all national allocation plans on a consistent, coherent and robust basis. In this context, the Climate Change Committee underlined the importance of using the 2005 verified emissions figures as a significant element for the assessment of second period national allocation plans. The Climate Change Committee also, *inter alia*, stressed the crucial importance of transparent and credible baseline data and projected emissions and urged the Commission to take into account the importance of preserving the integrity of the internal market and to avoid undue distortions of competition. The Climate Change Committee, *inter alia*, noted with great concern that the proposed cap substantially exceeds 2005 verified emissions and urged the Commission to scrutinise that installations are not allocated more allowances than needed. The Climate Change Committee also urged the Commission to compare the proposed allocation to Poland's projections and measures for the non-trading and trading sectors, including in particular assumptions made on growth rates and carbon intensity trends; to compare Poland's allocation to recent historic and projected emissions; and to examine the justification for deviations from recent historic and projected emissions for the trading

¹ OJ L 275, 25.10.2003, p. 32, (OJ L 338, 13.11.2004, p. 18).

² OJ L 49, 19.2.2004, p. 1.

sector. This decision takes account of and is consistent with the views of the Climate Change Committee.

- (3) The national allocation plan is in line with the earlier national allocation plan amended by Poland according to Commission Decision C(2007) 1295 final and implemented pursuant to Article 11(2) of Directive 2003/87/EC. Within the "Reserves for new installations in the Scheme" Poland created "reserves for existing installations which are identified at later stage and for future Joint Implementation projects". Issuance of allowances from these reserves to Joint Implementation projects should be fully in line with the relevant legal provisions, in particular Article 11b of Directive 2003/87/EC and Commission Decision of 13 November 2006 on avoiding double counting of greenhouse gas emission reductions under the Community emissions trading scheme for project activities under the Kyoto Protocol pursuant to Directive 2003/87/EC³.
- (4) The Commission has also made a preliminary assessment of the compliance of the national allocation plan with the provisions of the TFEU, and in particular Articles 107 and 108 thereof. The Commission at this stage considers that the plan could potentially imply State aid pursuant to Article 107(1) TFEU. On the basis of information provided by Poland, the Commission at this stage cannot exclude that any aid involved would be found incompatible with the common market should it be assessed in accordance with Articles 107 and 108 TFEU.
- (5) The Commission has found that the national allocation plan is not incompatible with the criteria listed in Annex III and with Article 10 of Directive 2003/87/EC.

HAS ADOPTED THIS DECISION:

Article 1

No objections are raised to the national allocation plan.

Article 2

This Decision is addressed to the Republic of Poland.

Done at Brussels, 19 April 2010

*For the Commission
Connie Hedegaard
Member of the Commission*

³ OJ L 316, 16.11.2006, p. 12.