



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25/V/2005
C(2005) 1527 final

COMMISSION DECISION

of 25/V/2005

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

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(Only the Italian 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 Italy for the period 2005-2007, developed under Article 9(1) of Directive 2003/87/EC, was notified in part to the Commission by letter dated 21 July 2004 and registered by the Commission on 26 July 2004. Italy submitted additional information on the notified plan by letter dated 29 October 2004 in reply to questions from the Commission. Furthermore, Italy submitted additional information and commitments amending and completing the notified plan by letter dated 25 February 2005, registered on 3 March 2005, as well as by letters dated 29 April and 17, 20 and 23 May 2005.
- (2) The Climate Change Committee has considered the national allocation plan and has called on the Commission to closely examine Italy's anticipated path to reaching its target under Decision 2002/358/EC. The Climate Change Committee called on the Commission to compare the proposed allocation to Italy's projections and measures for the non-trading and trading sectors, including in particular assumptions made on growth rates, and urged the Commission to compare Italy'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 urged the Commission to make certain that the intended use of the Kyoto mechanisms by Italy is substantiated through the state of advancement of relevant legislation and implementing provisions in the plan. The

¹ OJ L 275, 25.10.2003, p. 32.

Climate Change Committee called on the Commission to scrutinise the intended allocation methodology for the power generation sector and to examine the admissibility under criterion (10) of the intended ex-post adjustments of allocated amounts for existing and new power generating installations. The Climate Change Committee 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 to assist Member States in the implementation of the criteria listed in Annex III to Directive 2003/87/EC². Two aspects of the national allocation plan have been found incompatible with those criteria, and in particular with criterion 10.
- (4) The allowances intended to be allocated related to the generation of electricity from blast furnace gases have not been allocated to individual installations and are not contained in the list of installations. This contravenes criterion 10 because the plan does not contain a complete list of installations with the quantities of all allowances intended to be allocated to each.
- (5) The intention of Italy to allow existing installations which are subject to an update of their permits to draw allowances from the new entrants reserve for the part of the modified installation which already existed before the permit update contravenes criterion 10. That criterion requires that the quantity of allowances which are to be allocated to each existing installation must be stated *ex-ante* in the national allocation plan covering the period referred to in Article 11(1) of Directive 2003/87/EC.
- (6) In order to bring the national allocation plan in conformity with criterion 10 of Annex III to Directive 2003/87/EC, the plan should be amended to include the quantities of allowances intended to be allocated to individual installations related to the generation of electricity from blast furnace gases in the list of installations, those quantities being determined in accordance with the general methodologies stated in the national allocation plan. Furthermore, the plan should be amended not to allow existing installations which are subject to an update of their permits to draw allowances from the new entrants reserve for the part of the modified installation which already existed before the permit update. The Commission should be notified of the amendments made to the plan in accordance with this Decision by Italy forthwith.
- (7) In assessing the national allocation plan in respect of criteria 1, 3 and 10 of Annex III to Directive 2003/87/EC, the Commission takes into account the information and commitments provided by Italy in the letters dated 29 April and 17, 20 and 23 May 2005, in particular the commitment to reduce its annual average allocation by a total of 23.0 million tonnes of allowances with respect to the plan notified in part on 21 July 2004, as amended by letter dated 25 February 2005, leading to maximum average annual emissions of the trading sector of 232.5 million tonnes.
- (8) 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 submitted by the

² COM(2003)830 final

Member State, and provided that the latest amendments committed to by Italy in its letters of 17, 20 and 23 May 2005 are implemented in a non-discriminatory way, 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.

- (9) Information in the national allocation plan not relevant to the allocation of allowances for the period referred to in Article 11(1) of Directive 2003/87/EC has not been taken into account for the purposes of this Decision.
- (10) This Decision is without prejudice to Italy's obligations under Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market³.
- (11) 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 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 important aspects 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 following aspects of the national allocation plan of Italy are incompatible with criterion 10 of Annex III to Directive 2003/87/EC respectively:

- (a) the failure to specify in the list of installations the quantities of allowances intended to be allocated to individual installations related to the generation of electricity from blast furnace gases;
- (b) the intended authorisation of existing installations which are subject to an update of their permits to draw allowances from the new entrants reserve for the part of the modified installation which already existed before the permit update.

Article 2

Provided that the following amendments to the national allocation plan are made and notified to the Commission forthwith, no objections shall be raised to the national allocation plan:

- (a) the quantities of allowances intended to be allocated to individual installations related to the generation of electricity from blast furnace gases are included in the list of installations, those quantities being determined in accordance with the general methodologies stated in the national allocation plan;

³ OJ L 283 , 27.10.2001, p.33.

⁴ OJ L 49, 19.02.2004, p. 1.

- (b) existing installations which are subject to an update of their permits are not allowed to draw allowances from the new entrants reserve for the part of the modified installation which already existed before the permit update.

Article 3

1. The total quantity of allowances to be allocated by Italy according to its national allocation plan to installations listed therein, including subsequent information and commitments notified to the Commission by letters dated 17, 20 and 23 May 2005, shall not be exceeded, nor shall the total quantity to be allocated to new entrants 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 to be allocated to installations listed therein resulting from improvements to data quality.

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 25/V/2005

For the Commission
Stavros DIMAS
Member of the Commission