



EUROPEAN COMMISSION

Brussels, 5 December 2011

[...](2011)

COMMISSION DECISION

of 5 December 2011

concerning the national allocation plan for the allocation of greenhouse gas emission allowances notified by Estonia on 5 September 2011 in accordance with Directive 2003/87/EC of the European Parliament and of the Council

Only the Estonian text is authentic

COMMISSION DECISION

of 5 December 2011

concerning the national allocation plan for the allocation of greenhouse gas emission allowances notified by Estonia on 5 September 2011 in accordance with Directive 2003/87/EC of the European Parliament and of the Council

Only the Estonian 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) The national allocation plan of Estonia for the period 2008-2012, developed under Article 9(1) of Directive 2003/87/EC² (hereinafter "the Directive"), was notified to the Commission by letter dated 7 July 2006 and registered by the Commission on 12 July 2006. Estonia submitted additional information in order to complete the notified plan by letter dated 7 November 2006, registered on 9 November 2006, in reply to questions from the Commission, and by letter of 6 February 2007, registered on 15 February 2007.
- (2) On 4 May 2007, the Commission adopted the Decision C(2007)1978 final rejecting the national allocation plan. Estonia has then amended its national allocation plan in conformity with Decision C(2007)1978 final. Estonia implemented the amended national allocation plan according to Article 11(2) of the Directive. Pursuant to Regulation 2216/2004/EC³, the Estonian national allocation plan table has been entered into the Community independent transaction log and the allowances were allocated to individual installations for 2008 and 2009.
- (3) In parallel, Estonia brought an action for annulment against Decision C(2007)1978 (Case T-263/07). On 23 September 2009, the Court of First Instance (First Chamber) rendered a judgment annulling that decision. As a result of the annulment of the Decision C(2007)1978 final and in line with the Court of First Instance's judgement,

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

² OJ L 275, 25.10.2003, p.32

³ OJ L 386, 29.12.2004, p.1

the Commission reassessed the national allocation plan and rejected it on 11 December 2009.

- (4) By letter dated 8 February 2011, registered on 10 February 2011, Estonia notified to the Commission a revised national allocation plan for the period 2008-2012. On 29 April 2011, the Commission took the Decision C(2011)2999 final also rejecting this revised national allocation plan.
- (5) Thereafter, Estonia notified a new national allocation plan on 5 September 2011 (hereinafter 'the national allocation plan').
- (6) 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 Protocol⁴ considered on 14 September 2011 the national allocation plan without expressing any particular views with regard to the national allocation plan.
- (7) The national allocation plan is in line with the earlier national allocation plan amended by Estonia according to Commission Decision C(2007) 1978 final and implemented pursuant to Article 11(2) of Directive 2003/87/EC as regards the years 2008 and 2009. Most recent and reliable information on emissions and economic growth, including data on verified emissions in 2005 to 2010, has been used to determine the amount of allowances until 2012.
- (8) 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 considers that the allocation of allowances free of charge to certain activities confers a selective economic advantage to undertakings which has the potential to distort competition and affect intra Community trade. The allocation of allowances for free appears to be imputable to the Member State and to entail the use of State resources to the extent that more than 90% of allowances are given for free. The Commission at this stage therefore considers that the plan could potentially imply State aid pursuant to Article 107(1) TFEU. On the basis of information provided by Estonia, 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.
- (9) 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 notified by Estonia on 5 September 2011.

⁴ OJ L 49, 19.2.2004, p. 1.

Article 2

This Decision is addressed to the Republic of Estonia.

Done at Brussels, 5 December 2011

*For the Commission
Connie Hedegaard
Member of the Commission*