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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.10.2004  
C (2004) 3982 / 4 final

**COMMISSION DECISION**

**of 20 October 2004**

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

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

(Only the Portuguese 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 Portugal for the period 2005-2007, developed under Article 9(1) of Directive 2003/87/EC, was notified to the Commission on 25 June 2004. Portugal submitted additional information completing the notified plan by letter received on 26 August 2004 in reply to questions from the Commission and by letter dated 11 October 2004.
- (2) The Climate Change Committee has considered the national allocation plan and has called on the Commission *inter alia* to closely examine Portugal's anticipated path to reaching its target under Decision 2002/358/EC and to compare the proposed allocation to Portugal's projections and measures for the non-trading and trading sectors, including in particular assumptions on growth rates. 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 with a view to avoiding the double counting of growth in output and emissions by means of both allocating to installations listed in the plan and building a new entrants reserve, and to examine the admissibility under criterion 10 of the various intended ex-post adjustments of allocated amounts. The Climate Change Committee urged the Commission to make certain that the intended use of the Kyoto mechanisms by Portugal is substantiated through the state of advancement of relevant legislation and implementing provisions in the plan. 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>.

- (4) In assessing the national allocation plan in respect of criterion 1 of Annex III to Directive 2003/87/EC, the Commission takes into account information in the letter of Portugal dated 11 October 2004 regarding the decision to reduce its total allocation by 700,000 tonnes of allowances per year with respect to the plan notified on 25 June 2004 and the commitments in respect of Portugal'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 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*

No objections are raised to the national allocation plan of Portugal with regard to the criteria of Annex III to the Directive or with regard to Article 10 thereof.

#### *Article 2*

1. The total quantity of allowances to be allocated by Portugal according to its national allocation plan including subsequent information notified to the Commission by letter dated 11 October 2004 to installations listed therein, 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.
3. Any amendments to the national allocation plan other than those referred to in paragraph 2 of this Article shall be notified to the Commission and accepted in accordance with Article 9(3) of 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 4*

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 20 October 2004