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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.10.2004
C (2004) 3982 final

COMMISSION DECISION

of 20 October 2004

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

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(Only the Dutch and French texts are 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 Belgium for the period 2005-2007, developed under Article 9(1) of Directive 2003/87/EC, was notified to the Commission on 30 June 2004. Belgium submitted additional information amending and completing the notified plan by a letter dated 23 August 2004 in reply to questions from the Commission and by letters dated 4 October, 5 October 2004 and 7 October 2004.
- (2) The Climate Change Committee has considered the national allocation plan and has called on the Commission *inter alia* to closely examine Belgium's anticipated path to reaching its target under Decision 2002/358/EC and to compare the proposed allocation to Belgium's projections for the non-trading and trading sectors, including in particular assumptions made. The Climate Change Committee urged the Commission to make certain that the intended use of the Kyoto mechanisms by Belgium is substantiated through the state of advancement of relevant legislation and implementing provisions in the plan, to carefully examine the definition of new entrants and closures, access rules to the new entrant reserves, and the admissibility of the special reserves for the steel sector, and to closely scrutinise the existence of ex-post adjustments in the context of allocations out of the new entrants 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.

¹ OJ L 275, 25.10.2003, p. 32.

² COM(2003)830 final

- (4) In assessing the national allocation plan in respect of criteria 1 of Annex III to Directive 2003/87/EC, the Commission takes into account the information in the letter of the Belgian government dated 4 October 2004 concerning the commitments in respect of Belgium's use of the Kyoto Protocol's mechanisms, the information in the letter of the Flemish government dated 7 October 2004 regarding the decision to reduce the total allocation by 523,333 tonnes of allowances per year with respect to the plan notified on 30 June 2004, and the information in the letter of the Wallonian government dated 5 October 2004 regarding the decision to reduce the total allocation by 147,125 tonnes of allowances per year with respect to the plan notified on 30 June 2004.
- (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 national allocation plan includes intended allocations for installations in respect of which Belgium intends to submit an application for temporary exclusion from the Community scheme until 31 December 2007 pursuant to Article 27 of Directive 2003/87/EC. In the event that an application is approved, a corresponding adjustment to the total quantity will have to be made in respect of the intended allocations to those installations during the period for which they are temporarily excluded from the scheme.
- (7) 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.
- (8) 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 Protocol³ 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 Belgium 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 Belgium according to its national allocation plan to installations listed therein, including subsequent information notified to the

³ OJ L 49, 19.02.2004, p. 1.

Commission by letters dated 4 October, 5 October 2004 and 7 October 2004, 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.

Article 3

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 20 October 2004