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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.10.2004
C (2004) 3982 / 3 final

COMMISSION DECISION

of 20 October 2004

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

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(Only the French 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 Luxembourg for the period 2005-2007, developed under Article 9(1) of Directive 2003/87/EC, was notified to the Commission on 31 March 2004 and supplemented on 7 May. Luxembourg submitted additional information amending and completing the notified plan by a letter registered on 17 June 2004, a letter dated 1 September 2004 and a letter dated 6 October 2004.
- (2) The Climate Change Committee has considered the national allocation plan and has called on the Commission *inter alia* to closely examine Luxembourg's anticipated path to reaching its target under Decision 2002/358/EC, to compare Luxembourg'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. 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.
- (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 letters of Luxembourg dated 1 September and 6 October 2004 regarding the decision to reduce its total allocation by 156,000 tonnes of allowances per year with respect to the plan notified on 31 March 2004 and the commitments in respect of Luxembourg's use of the Kyoto Protocol's mechanisms.

¹ OJ L 275, 25.10.2003, p. 32.

² COM(2003)830 final

- (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) 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.
- (7) 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 Luxembourg 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 Luxembourg according to its national allocation plan including subsequent information notified to the Commission by letters dated on 1 September 2004 and 6 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.

Article 3

This Decision is addressed to the Grand-Duchy of Luxembourg.

³ OJ L 49, 19.02.2004, p. 1.

Done at Brussels, 20 October 2004