COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND TO THE EUROPEAN PARLIAMENT

on Commission Decisions of 20 October 2004 concerning national allocation plans for the allocation of greenhouse gas emission allowances of Belgium, Estonia, Finland, France, Latvia, Luxembourg, Portugal, and the Slovak Republic in accordance with Directive 2003/87/EC

1. INTRODUCTION

Combating climate change is an important objective of the European Union. The EU has decided to do this by implementing its obligations under the Kyoto Protocol, a multilateral agreement to tackle this global problem through multilateral co-operation. Working closely with Member States, industry, civil society and academia, a European Climate Change Programme (ECCP) has been developed to help the EU find cost-effective ways of meeting its Kyoto Protocol commitments. A key proposal from the ECCP was the creation of an EU-wide emission trading system to help the EU to reduce its emissions of greenhouse gases. In 2003 the Council and Parliament adopted Directive 2003/87/EC providing for EU-wide emissions trading from January 2005.

The first phase of EU emissions trading covers CO_2 emissions from over 12,000 installations. Each Member State has to draw up a national plan for allocating tradable allowances and submit it to the Commission for assessment. The plans shall be based on objective and transparent criteria, including those listed in Annex III of the Directive. The Commission may reject the national plans, in whole or in part that do not comply with these criteria. In order to help the Member States prepare their plans, the Commission has adopted guidance[1] on the implementation of the criteria set out in the Directive.

This Communication builds on COM(2004) 500[2] which explained the grounds for the Commission's Decisions on the National Allocation Plans of Austria, Denmark, Germany, Ireland, the Netherlands, Slovenia, Sweden and the United Kingdom, and sets out the Commission's assessment of a further eight national plans. One of the reasons why the Commission was given responsibility under the Directive to assess the national allocation plans is to ensure that the Directive's criteria have been correctly applied in the distribution of tradable allowances before trading starts. In a single EU internal market and a single EU emissions trading scheme it is important to guard against distortion of competition through an incorrect application of the Directive or Treaty provisions. This is the first time that the EU has engaged in EU-wide emissions trading and the first trading period, from 2005-2007, has been designed as a "learning phase". It is in the interest of all Member States that this instrument contributes towards the EU's climate change goals, and does so in a cost-efficient manner. However, if more allowances were issued by Member States than the likely quantity of actual emissions from the installations covered, little or no environmental benefit would be provided by the Directive. The development of clean and new technologies would be hampered, and the development of a dynamic and liquid market would be undermined.

2. NUMBER OF NATIONAL ALLOCATION PLANS SUBMITTED

As at 14 October 2004, 22 Member States have notified a national allocation plan to the Commission. Eight of these were assessed in July 2004 and a further eight (Belgium, Estonia,

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1 Communication on guidance to assist Member States in the implementation of the criteria listed in Annex III to Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, COM(2003) 830 final of 7 January 2004.

2 Communication on Commission Decisions of 7 July 2004 concerning national allocation plans for the allocation of greenhouse gas emission allowances of Austria, Denmark, Germany, Ireland, the Netherlands, Slovenia, Sweden, and the United Kingdom in accordance with Directive 2003/87/EC.

Finland, France, Latvia, Luxembourg, Portugal, and the Slovak Republic) are sufficiently complete to allow the Commission to take a decision on their compatibility with the Directive. These further eight plans represent about 15 % of the estimated overall quantity of allowances for the first trading period, bringing the total to close to 60 % of the expected volume in circulation.

3. ASSESSMENT OF NATIONAL ALLOCATION PLANS

Each national plan received has been assessed in a manner fully consistent with the Decisions adopted for the first eight Member States on 7 July 2004, and explained in COM(2004)500.

In analysing the plans, the Commission has again grouped the elements it has found to contravene one or more of the 11 criteria of the Directive under the following headings: consistency with each Member State's Kyoto Protocol commitments ("the path to Kyoto"); ex-post adjustments; transfer rules; the design and management of any new entrant reserve. In some of the plans included in this second set of Decisions, the Commission has furthermore identified incompatibilities with assessments under Decision 280/2004/EC. Each of these groupings is covered in the following sections.

3.1. Consistency with assessments pursuant to Decision 280/2004/EC

Pursuant to Decision 280/2004/EC[3] the Commission undertakes an annual assessment of actual and projected emissions of Member States, in total and by sector and by gas. These assessments are prepared in close cooperation with Member States. The Guidance Document states: "Consistency would not be ensured if a Member State intended to allocate a total quantity of allowances in excess of actual or projected emission of covered installations as reported in the assessment for the relevant period."

The Commission finds that the plans of Estonia, Latvia and the Slovak Republic are compatible with criterion (2) taking into account the reduced total quantity of allowances in the three plans.

3.2. Consistency with a path to Kyoto

In total, Belgium and Luxembourg intend to purchase a minimum of 56 million Kyoto units[4]. Portugal, while indicating the intention to purchase Kyoto units, has not quantified them in the plan and so no account of the intention has been taken in assessing the plan.

The Commission has based its assessment on the eight elements outlined in COM(2004) 500.

Belgium intends to purchase a minimum of 41 million Kyoto units and has made substantial progress on the eight elements referred to COM(2004) 500. Notably it has committed at this stage financial resources of more than €120 million for the purchase of Kyoto units. Taking into account the reduced total quantity of allowances, the Commission does not find the Belgian plan to contravene criterion (1).

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3 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 Protocol, OJ L 49, 19.2.2004, p. 1.

4 Luxembourg – 15 million, Belgium – at least 41 million.

Luxembourg has stated the intention to purchase 15 million Kyoto units. The Luxembourg authorities notified to the Commission on 6 October 2004 the commitments to establish a legal base in the law transposing Directive 2003/87/EC and set up a special climate fund, to commit financial resources for the climate fund in the budget for 2005, and to establish and notify to the UN Climate Secretariat the Ministry of the Environment as the designated national authority. Taking into account the above described changes and the reduced total quantity of allowances, the Commission does not find the plan of Luxembourg to contravene criterion (1).

3.3. Ex-post adjustments

Businesses need certainty in order to have the confidence necessary to make new investments. Ex-post adjustments undermine this confidence by creating uncertainty.

Ex-post adjustments were disallowed wherever present in earlier national allocation plans in the Commission Decisions on national allocation plans taken on 7 July 2004. Furthermore, some Member States amended their plans prior to those Decisions to remove ex-post adjustments, and other Member States have amended their plans likewise to remove ex-post adjustments before the adoption of the present Decisions.

3.4. New entrant reserves

The Commission notes that all plans assessed foresee the establishment of new entrant reserves.

3.5. Issues specific to individual plans

Finland’s plan does include a list of installations to be covered, but the list does not include the quantities to be allocated for each installation on the Åland Islands. The list required by criterion (10) is therefore incomplete.

France has notified that it will include about 800 further installations in addition to those notified originally. Further details, including the number of allowances to be allocated to these installations, have not yet been notified and so the list is incomplete. The Commission finds furthermore that a share of the allocation intended to the special reserve for growth contravenes criterion (5) as it is based on over-estimated growth figures, and would unduly favour certain undertakings and activities.

Table 1 below summarises the assessment of the Commission and indicates which criteria have been contravened by individual plans.

Table 1

	Belgium	Estonia	Finland	France	Latvia	Luxembourg	Portugal	Slovak Republic
(1) Kyoto								
(2) Emissions development								
(3) Potential								
(4) Other legislation								
(5) Non-discrimination				REJECT				
(6) New entrants								
(7) Early action								
(8) Clean technologies								
(9) Public consultation								
(10) List of installations with quantity for each one			REJECT	REJECT				
(11) Outside competition								
Article 10								