

Commission Decision of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2013) 5666) (Text with EEA relevance) (2013/448/EU)

COMMISSION DECISION

of 5 September 2013

concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council

(notified under document C(2013) 5666)

(Text with EEA relevance)

(2013/448/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty of the Functioning of the European Union,

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 Articles 10a and 11 thereof,

Whereas:

- (1) Auctioning is the rule for the allocation of emission allowances from 2013 onwards to operators of installations within the scope of the emissions trading scheme of the Union (EU ETS). However, eligible operators will continue to receive free allowances between 2013 and 2020. The amount of allowances that each such operator receives is determined on the basis of Union-wide harmonised rules set out in Directive 2003/87/EC and Commission Decision 2011/278/EU<sup>(2)</sup>.
- (2) Member States were required to submit to the Commission by 30 September 2011 their National Implementation Measures (NIMs) comprising, among other mandatory information, a list of installations covered by Directive 2003/87/EC on their territory and the preliminary amount of free allowances to be allocated between 2013 and 2020 calculated on the basis of the Union-wide harmonised rules.
- (3) Article 18 of the Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community<sup>(3)</sup> provides for transitional measures applying in respect of Croatia and set out in Annex V to this Act. Pursuant to point 10 of that Annex V, Croatia is

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**Changes to legislation:** There are currently no known outstanding effects for the Commission Decision of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2013) 5666) (Text with EEA relevance) (2013/448/EU). (See end of Document for details)

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required to ensure that operators comply with Directive 2003/87/EC for the whole year 2013. Likewise, operators of eligible installations receive free allocation for the whole year 2013 to allow them full compliance with the EU ETS and its principle of annual monitoring, reporting and verification of emissions and surrender of emission allowances. Accordingly, Croatia submitted the NIMs to the Commission in accordance with Article 11(1) of Directive 2003/87/EC and Article 15(1) of Decision 2011/278/EU.

- (4) To ensure data quality and comparability, the Commission provided an electronic template for the submission of the NIMs. All Member States submitted in this or in a similar format a list of installations, a table containing all relevant data per installation and a methodology report setting out the data collection process conducted by Member States' authorities.
- (5) Given the wide range of information and data submitted, the Commission first analysed the completeness of all the NIMs. Where the Commission noted that submissions were incomplete, it requested additional information from the Member States concerned. In reply to those requests, the relevant authorities submitted additional relevant information in order to complete the submitted NIMs.
- (6) The NIMs, including the preliminary total annual amounts of emission allowances to be allocated for free between 2013 and 2020, have then been evaluated against the criteria contained in Directive 2003/87/EC, notably Article 10a thereof, and in Decision 2011/278/EU, taking into account the Commission's guidance documents to Member States endorsed by the Climate Change Committee on 14 April 2011. Where applicable, account has been taken of the guidance on interpretation of Annex I to Directive 2003/87/EC.
- (7) The Commission carried out an in-depth compliance assessment of the NIMs for each individual Member State. As part of that comprehensive assessment, the Commission analysed the consistency of the data itself and the consistency of the data with the harmonised allocation rules. First, the Commission examined the eligibility of installations for free allocation, the division of installations into subinstallations and their boundaries. The Commission then analysed the application of the correct benchmark values to the relevant subinstallations. Considering that for product-benchmark subinstallations Decision 2011/278/EU lays down, in principle, for each product one benchmark, the Commission paid particular attention to the application of the benchmark value to the final product produced in accordance with the product definition and the system boundaries set out in Annex I to Decision 2011/278/EU. Furthermore, given the significant impact on allocations, the Commission analysed in detail the calculation of the historical activity levels of installations, cases of significant capacity changes during the baseline period as well as cases of installations starting operation during the baseline period, the calculation of the preliminary number of emission allowances to be allocated free of charge taking into account the exchangeability of fuel and electricity, the carbon leakage status as well as heat exports to private households. Further statistical analyses and plausibility checks using indicators such as, for example, proposed allocation per historical activity level compared to benchmark values or historical activity level compared to production

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capacity helped in identifying additional potential irregularities in the application of the harmonised allocation rules.

- (8) On the basis of the results of that assessment, the Commission carried out a detailed assessment of installations where potential irregularities in the application of the harmonised allocation rules were identified, seeking further clarification from the competent authorities of the Member State concerned.
- (9) In the light of the results of that compliance assessment, the Commission considers the NIMs of Belgium, Bulgaria, Denmark, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden and the United Kingdom to be compatible with Directive 2003/87/EC and Decision 2011/278/EU. The installations included in the NIMs by these Member States have been found eligible for free allocation and no inconsistencies with regard to the preliminary total annual amounts of emission allowances allocated free of charge proposed by each of these Member States could be detected.
- (10) But, in the light of the results of the assessment, the Commission finds that certain aspects of the NIMs submitted by the Czech Republic and Germany are incompatible with the criteria contained in Directive 2003/87/EC and in Decision 2011/278/EU, taking into account the Commission's guidance documents to Member States endorsed by the Climate Change Committee on 14 April 2011.
- (11) The Commission notes that Germany has proposed that seven installations receive an increase in the level of free allocation of emission allowances because it considers this would avoid undue hardship. In accordance with Article 10a of Directive 2003/87/EC and Decision 2011/278/EU, the preliminary amounts of free allocation to be submitted as part of the NIMs are calculated on the basis of harmonised Union-wide rules. Decision 2011/278/EU does not provide for the adjustment which Germany would wish to make on the basis of Article 9(5) of the German Greenhouse Gas Emissions Trading Act — TEHG of 28 July 2011. Whereas until 2012, free allocation of emission allowances was organised nationally, for the period as of 2013 the legislator intentionally established fully-harmonised rules for free allocation to installations, so that all installations are treated in the same manner. Any unilateral change to the preliminary amounts of free allocation calculated by Member States on the basis of Decision 2011/278/EU would undermine this harmonised approach. Germany has not substantiated that the allocation for the installations in question calculated on the basis of Decision 2011/278/EU was manifestly inappropriate having regard to the objective of full harmonisation of allocations to be achieved. Assigning more free allowances to some installations would distort or threaten to distort competition and has cross-border effects given Union-wide trade in all sectors covered by Directive 2003/87/EC. In the light of the principle of equal treatment of installations under the EU ETS and of Member States, the Commission finds that it is therefore appropriate to object to the preliminary amounts of free allocation to certain installations contained in the German NIMs and listed in point A of Annex I.

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- (12) The Commission finds that the NIMs proposed by Germany also contravene Decision 2011/278/EU because the application of the product benchmark for hot metal in the cases listed in point B of Annex I to this Decision is inconsistent with the relevant rules. In this regard, the Commission observes that in the German NIMs, in cases of basic oxygen furnace (BOF) steelmaking processes and where hot metal from the blast furnace is not refined to steel within the same installation, but exported for further processing, no free allocation of emission allowances is provided to the operator of the installation with the blast furnace for the production of the hot metal. Instead, the free allocation is provided to the installation where the steel refining takes place.
- (13) The Commission notes that for the purposes of allocating emission allowances, product benchmarks have been laid down in Decision 2011/278/EU taking into account the product definitions and the complexity of the production processes that allow for verification of production data and a uniform application of the product benchmarks across the Union. For the application of the product benchmarks, installations are divided into sub-installations, a product benchmark sub-installation being defined as inputs, outputs and corresponding emissions relating to the production of a product for which a benchmark has been set in Annex I to Decision 2011/278/EU. Benchmarks are thus established for products and not for processes. Accordingly, a benchmark has been developed for hot metal, with the product defined as liquid iron saturated with carbon for further processing. The fact that the system boundaries for the hot metal benchmark set out in Annex I to Decision 2011/278/EU comprise the BOF cannot permit Member States to disregard that allocations should take place for the production of a given product. This consideration is corroborated by the fact that the benchmark values should cover all production-related direct emissions. However, it is the production of hot metal in the blast furnace that mainly causes emissions while the process of refining the hot metal to steel in the BOF converter is relatively low in emissions. Accordingly, the benchmark value would be much lower, if it also covered installations importing hot metal and refining it in the BOF converter to steel. Moreover, in the light of the overall scheme for allocation set up by Decision 2011/278/EU, in particular with regard to the rules on significant capacity changes, the allocation proposed by Germany cannot be regarded as consistent. The Commission therefore finds that due to the lack of a corresponding sub-installation that would allow for the determination of the allocation in accordance with Article 10 of Decision 2011/278/EU, installations importing hot metal for further processing cannot be regarded eligible for receiving free allocation on the basis of the hot metal benchmark for the amount of hot metal imported. The Commission therefore objects to the preliminary total annual amounts of free allocation proposed for the installations listed in point B of Annex I to this Decision.
- (14) With regard to the application of the benchmark for hot metal in the NIMs as proposed by the Czech Republic, the Commission notes that the allocation to the installation listed under point C with the identifier CZ-existing-CZ-73-CZ-0134-11/M does not correspond to the value of the hot metal benchmark multiplied by the relevant product-related historical activity level as submitted in the NIMs and is therefore not in line with Article 10(2)(a) of Decision 2011/278/EU. The Commission therefore objects to the allocation to this installation unless this error is corrected. Furthermore, the Commission

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notes that the allocation to the installation listed under point C with the identifier CZ-existing-CZ-52-CZ-0102-05 takes account of processes that are covered by the system boundaries of the hot metal benchmark. The installation, however, does not produce, but imports hot metal. Due to the lack of production of hot metal in the installation with the identifier CZ-existing-CZ-52-CZ-0102-05, and thus a lack of a corresponding product benchmark sub-installation that would allow for the determination of the allocation in accordance with Article 10 of Decision 2011/278/EU, the proposed allocation is not consistent with the allocation rules and may give rise to double counting. The Commission therefore objects to the allocation to the installations listed in point C of Annex I to this Decision.

- (15) The Commission notes that the installations referred to in point D of Annex I to this Decision receive an allocation on the basis of a process emissions sub-installation for the production of zinc in the blast furnace and related processes. In this regard, the Commission notes that the emissions covered by the process emissions sub-installation are already covered by the product benchmark sub-installation for hot metal on the basis of which one of the installations also receives an allocation and are thus double counted. The product benchmark sub-installation for hot metal clearly covers inputs, outputs and corresponding emissions relating to the production of hot metal in the blast furnace and all related processes as set out in Annex I to Decision 2011/278/EU, including slag treatment. The NIMs proposed by Germany therefore contravene Article 10(8) of Decision 2011/278/EU and the obligation to avoid double-counting of emissions because certain emissions are accounted for twice in the allocation to these installations. The Commission therefore objects to the allocation to these installations on the basis of a process emissions sub-installation for the production of zinc in the blast furnace and related processes.
- (16) The Commission also notes that the list of installations set out in the German NIMs is incomplete and therefore contravenes Article 11(1) of Directive 2003/87/EC. The list does not include installations producing polymers, in particular S-PVC and E-PVC, and vinyl chloride monomer (VCM) with the quantities of allowances intended to be allocated to each of these installations situated within the territory of Germany, to which that Directive applies and which are referred to in Section 5.1 of the Commission's guidance on the interpretation of Annex I to Directive 2003/87/EC, endorsed by the Climate Change Committee on 18 March 2010. In this regard, the Commission is aware of the opinion brought forward by Germany that the production of polymers, in particular S-PVC and E-PVC, and VCM is not covered by Annex I to Directive 2003/87/EC. The Commission considers that polymers, including S-PVC and E-PVC, and VCM, satisfy the definition of the relevant activity (production of bulk organic chemicals) in Annex I to Directive 2003/87/EC. Accordingly, in close cooperation with Member States and the industry sectors concerned corresponding product benchmarks for S-PVC, E-PVC and VCM were derived as set out in Annex I to Decision 2011/278/EU.
- (17) The Commission notes that the fact that the German list of installations is incomplete has undue effects on the allocation on the basis of the heat benchmark subinstallation for installations listed in point E of Annex I to this Decision exporting heat to installations

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producing bulk organic chemicals. Whereas only heat exports to an installation or other entity not covered by Directive 2003/87/EC give rise to free allocation on the basis of the heat benchmark subinstallation, in the German NIMs, heat exports to installations carrying out activities within the scope of Annex I to Directive 2003/87/EC are taken into account for the allocation to installations listed in point E of Annex I to this Decision. Consequently, the proposed allocations to the installations listed in point E of Annex I are not consistent with the allocation rules. The Commission therefore objects to the allocation to the installations listed in point E of Annex I to this Decision.

- (18) In accordance with Articles 9 and 9a of Directive 2003/87/EC, the Commission published by Decision 2010/634/EU<sup>(4)</sup> the absolute Union-wide quantity of allowances for the period from 2013 to 2020. In this regard, the quantity taken into account pursuant to Article 9 of Directive 2003/87/EC is based on the total quantities of allowances issued by the Member States in accordance with the Commission decisions on their National Allocation Plans for the period from 2008 to 2012. However, after the end of the trading period from 2008 to 2012, additional information and more accurate data has become available to the Commission in particular with regard to the quantity of allowances issued to new entrants from the Member States' New Entrant Reserves and on the use of allowances in Member States' set-asides for Joint Implementation projects established pursuant to Article 3 of Commission Decision 2006/780/EC<sup>(5)</sup>. Furthermore, with regard to the adjustment of the Union-wide quantity of allowances pursuant to Article 9a of Directive 2003/87/EC, and in particular paragraphs 1 and 4 thereof, account should be taken of the latest scientific data with regard to the global warming potential of greenhouse gases, Commission Decisions C(2011) 3798 and C(2012) 497 to accept the unilateral inclusion of additional greenhouse gases and activities by Italy and the United Kingdom pursuant to Article 24 of Directive 2003/87/EC as well as the exclusion of installations with low emissions from the EU ETS by Germany, Spain, France, Italy, the Netherlands, Slovenia and the United Kingdom, pursuant to Article 27 of Directive 2003/87/EC.
- (19) In addition, the absolute Union-wide quantity of allowances should take account of the accession of Croatia to the European Union as well as the extension of the EU ETS to the EEA-EFTA States. Pursuant to point 8 of Annex III to the Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, the quantity taken into account pursuant to Article 9 of Directive 2003/87/EC is increased as a result of Croatia's accession by the quantity of allowances that Croatia shall auction pursuant to Article 10(1) of Directive 2003/87/EC. The incorporation into the European Economic Area (EEA) Agreement of Directive 2009/29/EC of the European Parliament and of the Council<sup>(6)</sup> and Decision 2011/278/EU as amended by Commission Decision 2011/745/EU<sup>(7)</sup> by Decision of the EEA Joint Committee No 152/2012<sup>(8)</sup> implies an increase of the total quantity of allowances in the EU ETS as a whole under Articles 9 and 9a of Directive 2003/87/EC. It is therefore necessary to take account of the relevant figures provided by the EEA-EFTA States in Part A of the Appendix to that Directive in the EEA Agreement.

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- (20) Decision 2010/634/EU should therefore be amended accordingly.
- (21) In 2014 and each subsequent year, the total quantity of allowances determined for 2013 on the basis of Articles 9 and 9a of Directive 2003/87/EC decreases by a linear factor of 1,74 % from 2010, amounting to 38 264 246 allowances.
- (22) Article 10a(5) of Directive 2003/87/EC limits the maximum annual quantity of allowances that is the basis for calculating allocations free of charge to installations not covered by Article 10a(3) of Directive 2003/87/EC. This limit is composed of two elements referred to in points (a) and (b) of Article 10a(5) of Directive 2003/87/EC, each of which has been determined by the Commission on the basis of the quantities determined pursuant to Articles 9 and 9a of Directive 2003/87/EC, data publicly available in the Union registry and information provided by Member States, in particular with regard to the share of emissions from electricity generators and other installations not eligible for free allocation referred to in Article 10a(3) of Directive 2003/87/EC as well as verified emissions in the period from 2005 to 2007 from installations only included in the EU ETS from 2013 onwards, where available, taking into account the latest scientific data with regard to the global warming potential of greenhouse gases.
- (23) The limit set by Article 10a(5) of Directive 2003/87/EC may not be exceeded, and this is ensured by the application of an annual cross-sectoral correction factor which, if necessary, reduces the number of free allowances in all installations eligible for free allocation in a uniform manner. Member States have to take this factor into account when deciding on the basis of preliminary allocations and this Decision on the final annual amounts of allocation to installations. Article 15(3) of Decision 2011/278/EU requires the Commission to determine the cross-sectoral correction factor, which is done through comparing the sum of the preliminary total annual amounts of free allocation submitted by Member States to the limit set by Article 10a(5) in the manner set out in Article 15(3) of Decision 2011/278/EU.
- (24) Following the incorporation into the EEA Agreement of Directive 2009/29/EC by Decision of the EEA Joint Committee No 152/2012, the limit set by Article 10a(5) of Directive 2003/87/EC, the harmonised allocation rules and the cross-sectoral correction factor are to be applied within the EEA-EFTA countries. It is therefore necessary to take into account the preliminary annual amounts of emission allowances allocated free of charge over the period 2013 to 2020 fixed by the decisions of the EFTA Surveillance Authority of 10 July 2013 concerning the NIMs of Iceland, Liechtenstein and Norway.
- (25) The limit set by Article 10a(5) of Directive 2003/87/EC is 809 315 756 allowances in 2013. In order to derive this limit, the Commission first collected from Member States and the EEA-EFTA countries information on whether installations qualify as an electricity generator or other installation covered by Article 10a(3) of Directive 2003/87/EC. The Commission then determined the share of emissions in the period from 2005 to 2007 from the installations not covered by that provision, but included in the EU ETS in the period from 2008 to 2012. The Commission then applied this share of 34,78289436 % to the quantity determined on the basis of Article 9 of Directive 2003/87/EC (1 976 784 044 allowances). To the result of this calculation,

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the Commission then added 121 733 050 allowances, based on the average annual verified emissions in the period from 2005 to 2007 of relevant installations taking into account the revised scope of the EU ETS as of 2013. In this respect, the Commission used information provided by Member States and the EEA-EFTA countries for the adjustment of the cap. Where annual verified emissions for the period 2005-2007 were not available, the Commission extrapolated, to the extent possible, the relevant emission figures from verified emissions in later years by applying the factor of 1,74 % in reverse direction. The Commission consulted and obtained confirmation from Member States' authorities on information and data used in this respect. The limit set by Article 10a(5) of Directive 2003/87/EC compared to the sum of the preliminary annual amounts of free allocation without application of the factors referred to in Annex VI to Decision 2011/278/EU gives the annual cross-sectoral correction factor as set out in Annex II to this Decision.

- (26) Given the improved overview of the number of allowances that will be allocated free of charge that results from this Decision, the Commission is able to better estimate the amount of allowances to be auctioned in accordance with Article 10(1) of Directive 2003/87/EC. Taking into account the limit set by Article 10a(5) of Directive 2003/87/EC, the allocation in respect of heat production pursuant to Article 10a(4) set out in the table below and the size of the new entrants' reserve, the Commission estimates that the amount of allowances to be auctioned in the period from 2013 to 2020 is 8 176 193 157.
- (27) The following table sets out the annual allocation in respect of heat production pursuant to Article 10a(4) of Directive 2003/87/EC:

Year	Free allocation under Article 10a(4) of Directive 2003/87/EC
2013	104 326 872
2014	93 819 860
2015	84 216 053
2016	75 513 746
2017	67 735 206
2018	60 673 411
2019	54 076 655
2020	47 798 754

- (28) Member States should, on the basis of the NIMs, the cross-sectoral correction factor and the linear factor, proceed to the determination of the final annual amount of emission allowances allocated free of charge for each year over the period from 2013 to 2020. The final annual amount of free emission allowances should be determined by Member States in accordance with this Decision, Directive 2003/87/EC, Decision 2011/278/EU and with other relevant provisions of Union law. Likewise, the EEA EFTA States should proceed to the determination of the final annual amount of allowances allocated free of

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charge for each year from 2013 to 2020 in accordance with Article 10(9) of Decision 2011/278/EU to installations on their territory on the basis of their NIMs, the cross-sectoral correction factor and the linear factor.

- (29) The Commission considers that the allocation of allowances free of charge to installations covered by the EU ETS on the basis of Union-wide harmonised rules does not confer a selective economic advantage to undertakings with the potential to distort competition and affect intra-Union trade. Member States are obliged under Union law to allocate allowances for free and cannot choose to auction the relevant quantities instead. Member States' decisions with regard to the allocation of allowances free of charge cannot therefore be considered as involving State aid in the sense of Articles 107 and 108 TFEU,

HAS ADOPTED THIS DECISION:

## CHAPTER I

### NATIONAL IMPLEMENTING MEASURES

#### *Article 1*

1 The inscription of the installations listed in Annex I to this Decision on the lists of installations covered by Directive 2003/87/EC submitted to the Commission pursuant to Article 11(1) of Directive 2003/87/EC and the corresponding preliminary total annual amounts of emission allowances allocated free of charge to these installations is rejected.

2 No objections are raised should a Member State amend the preliminary total annual amounts of emission allowances submitted for the installations in its territory included in the lists referred to in paragraph 1 and listed in point A of Annex I to this Decision before determining the final total annual amount for each year from 2013 to 2020 in accordance with Article 10(9) of Decision 2011/278/EU to the extent that the amendment consists of excluding any increase in allocation that is not provided for in that Decision.

No objections are raised should a Member State amend the preliminary total annual amounts of emission allowances allocated for free to installations in its territory included in the lists referred to in paragraph 1 and listed in point B of Annex I to this Decision before determining the final total annual amount for each year from 2013 to 2020 in accordance with Article 10(9) of Decision 2011/278/EU to the extent that the amendment consists of excluding any allocation on the basis of the hot metal benchmark to installations importing hot metal as defined in Annex I to Decision 2011/278/EU for further processing. Where this leads to an increase of the preliminary total annual amount of emission allowances in an installation producing and exporting hot metal to an installation listed in point B of Annex I to this Decision, no objections are raised should the Member State concerned amend the preliminary total annual amount of this installation producing and exporting hot metal accordingly.

No objections are raised should a Member State amend the preliminary total annual amounts of emission allowances allocated free of charge to installations in its territory included in the lists referred to in paragraph 1 and listed in point C of Annex I to this Decision before determining the final total annual amount for each year from 2013 to 2020 in accordance with Article 10(9) of Decision 2011/278/EU to the extent that the amendment consists of bringing the allocation in line with Article 10(2)(a) of

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Decision 2011/278/EU and excluding any allocation for processes that are covered by the system boundaries of the product benchmark for hot metal as defined in Annex I to Decision 2011/278/EU to an installation not producing, but importing hot metal that would otherwise lead to double counting.

No objections are raised should a Member State amend the preliminary total annual amounts of emission allowances allocated free of charge to installations in its territory included in the lists referred to in paragraph 1 and listed in point D of Annex I to this Decision before determining the final total annual amount for each year from 2013 to 2020 in accordance with Article 10(9) of Decision 2011/278/EU to the extent that the amendment consists of excluding any allocation on the basis of a process emissions sub-installation for the production of zinc in the blast furnace and related processes. Where this leads to an increase of the preliminary allocation under the fuel or heat benchmark sub-installation in an installation with a blast furnace and listed in point D of Annex I to this Decision, no objections are raised should the Member State concerned amend the preliminary total annual amount of this installation accordingly.

No objections are raised should a Member State amend the preliminary total annual amounts of emission allowances allocated free of charge to installations in its territory included in the lists referred to in paragraph 1 and listed in point E of Annex I to this Decision before determining the final total annual amount for each year from 2013 to 2020 in accordance with Article 10(9) of Decision 2011/278/EU to the extent that the amendment consists of excluding any allocation for heat exported to installations producing polymers, such as S-PVC and E-PVC, and VCM.

3 Any amendment referred to in paragraph 2 shall be notified to the Commission as soon as possible, and a Member State may not proceed to the determination of the final total annual amount for each year from 2013 to 2020 in accordance with Article 10(9) of Decision 2011/278/EU until acceptable amendments have been made.

#### *Article 2*

Without prejudice to Article 1, no objections are raised with regard to the lists of installations covered by Directive 2003/87/EC submitted by Member States pursuant to Article 11(1) of Directive 2003/87/EC and the corresponding preliminary total annual amounts of emission allowances allocated for free to these installations.

## CHAPTER II

### TOTAL QUANTITY OF ALLOWANCES

#### *Article 3*

Article 1 of Decision 2010/634/EU is replaced by the following:

#### *Article 1*

On the basis of Articles 9 and 9a of Directive 2003/87/EC, the total quantity of allowances to be issued from 2013 onwards and annually decreased in a linear manner pursuant to Article 9 of Directive 2003/87/EC, is 2 084 301 856 allowances.

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## CHAPTER III

### CROSS-SECTORAL CORRECTION FACTOR

#### *[<sup>F1</sup>Article 4*

The uniform cross-sectoral correction factor referred to in Article 10a(5) of Directive 2003/87/EC and determined in accordance with Article 15(3) of Decision 2011/278/EU is set out in Annex II to this Decision.]

#### **Textual Amendments**

- F1** Substituted by [Commission Decision \(EU\) 2017/126 of 24 January 2017 amending Decision 2013/448/EU as regards the establishment of a uniform cross-sectoral correction factor in accordance with Article 10a of Directive 2003/87/EC of the European Parliament and of the Council \(Text with EEA relevance\)](#).

#### *Article 5*

This Decision is addressed to the Member States.

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## ANNEX I

### POINT A

#### Installation Identifier as submitted in the NIMs

DE000000000000010

DE0000000000000563

DE0000000000000978

DE0000000000001320

DE0000000000001425

DE-new-14220-0045

DE-new-14310-1474

### POINT B

#### Installation Identifier as submitted in the NIMs

DE0000000000000044

DE0000000000000053

DE0000000000000056

DE0000000000000059

DE0000000000000069

### POINT C

#### Installation identifier as submitted in the NIMs

CZ-existing-CZ-73-CZ-0134-11/M

CZ-existing-CZ-52-CZ-0102-05

### POINT D

#### Installation Identifier as submitted in the NIMs

DE-new-14220-0045

DE0000000000001320

### POINT E

#### Installation Identifier as submitted in the NIMs

DE0000000000000005

DE0000000000000762

DE0000000000001050

DE0000000000001537

DE0000000000002198

ANNEX I

Document Generated: 2023-07-02

**Changes to legislation:** There are currently no known outstanding effects for the Commission Decision of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2013) 5666) (Text with EEA relevance) (2013/448/EU). (See end of Document for details)

[<sup>F1</sup>ANNEX II

The cross-sectoral correction factor values applying to allocations free of charge to installations not covered by Article 10a(3) of Directive 2003/87/EC for the years 2013-2020 are the following:

Year	Cross-sectoral correction factor
2013	89,207101 %
2014	87,657727 %
2015	86,090119 %
2016	84,506152 %
2017	82,905108 %
2018	81,288476 %
2019	79,651677 %
2020	78,009186 %]

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- (1) [OJ L 275, 25.10.2003, p. 32.](#)
- (2) Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council ([OJ L 130, 17.5.2011, p. 1.](#)).
- (3) [OJ L 112, 24.4.2012, p. 21.](#)
- (4) Commission Decision 2010/634/EU of 22 October 2010 adjusting the Union-wide quantity of allowances to be issued under the Union Scheme for 2013 and repealing Decision 2010/384/EU ([OJ L 279, 23.10.2010, p. 34.](#)).
- (5) Commission Decision 2006/780/EC of 13 November 2006 on avoiding double counting of greenhouse gas emission reductions under the Community emissions trading scheme for project activities under the Kyoto Protocol pursuant to Directive 2003/87/EC of the European Parliament and of the Council ([OJ L 316, 16.11.2006, p. 12.](#)).
- (6) Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend greenhouse gas emission allowance trading scheme of the Community ([OJ L 140, 5.6.2009, p. 63.](#)).
- (7) Commission Decision 2011/745/EU of 11 November 2011 amending Decisions 2010/2/EU and 2011/278/EU as regards the sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage ([OJ L 299, 17.11.2011, p. 9.](#)).
- (8) Decision of the EEA Joint Committee No 152/2012 of 26 July 2012 amending Annex XX (Environment) to the EEA Agreement ([OJ L 309, 8.11.2012, p. 38.](#)).

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There are currently no known outstanding effects for the Commission Decision of 5 September 2013 concerning national implementation measures for the transitional free allocation of greenhouse gas emission allowances in accordance with Article 11(3) of Directive 2003/87/EC of the European Parliament and of the Council (notified under document C(2013) 5666) (Text with EEA relevance) (2013/448/EU).