

## COMMISSION DECISION

of 17 December 2013

**on the notification by the Kingdom of Spain of a transitional national plan referred to in Article 32 of Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions***(notified under document C(2013) 9089)***(Only the Spanish text is authentic)**

(2013/799/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) <sup>(1)</sup>, and in particular Article 32(5) second subparagraph thereof,

Whereas:

(1) In accordance with Article 32(5) first subparagraph of Directive 2010/75/EU, the Kingdom of Spain submitted to the Commission a transitional national plan (TNP) by e-mail on 21 December 2012 <sup>(2)</sup> and by official letter dated 28 December 2012, which was received by the Commission on 2 January 2013 <sup>(3)</sup>.

(2) The TNP has been assessed in accordance with Article 32(1), (3) and (4) of Directive 2010/75/EU and with Commission Implementing Decision 2012/115/EU <sup>(4)</sup>.

(3) During its assessment of the completeness of the TNP submitted by the Kingdom of Spain, the Commission found that many plants included in the TNP did not

match with the plants reported in the 2009 emission inventory submitted by the Kingdom of Spain in accordance with Directive 2001/80/EC of the European Parliament and of the Council <sup>(5)</sup>. The Commission also found that for plant 5 the contribution to the TNP ceiling for SO<sub>2</sub> for the period 2001–2007 was calculated on the basis of the minimum desulphurisation rate, and for the period 2008–2010 that contribution was determined by the emission limit value method, while the conditions to use this approach were not fulfilled.

(4) As the discrepancies between the data in the TNP and in the emission inventory under Directive 2001/80/EC hampered the assessment of the TNP, the Commission, in its letter of 11 June 2013 <sup>(6)</sup>, requested the Kingdom of Spain to provide clarification for the differences found. The Commission also requested the Kingdom of Spain to recalculate the contribution of plant 5 to the TNP ceiling for SO<sub>2</sub>.

(5) The Kingdom of Spain submitted additional information to the Commission by letter of 28 June 2013 <sup>(7)</sup>, which provided clarification on the differences between the information in the TNP and the 2009 emission inventory under Directive 2001/80/EC. The Kingdom of Spain also stated in that letter that there was no need to revise the contribution of plant 5 to the TNP ceiling for SO<sub>2</sub>.

(6) After further assessment of the TNP and the additional information submitted by the Kingdom of Spain, the Commission sent a second letter to the Kingdom of Spain on 19 September 2013 <sup>(8)</sup>, in which it confirmed its position as regards the use of the minimum desulphurisation rate method for calculating the contribution of plant 5 to the TNP ceilings for SO<sub>2</sub>. The Commission

<sup>(1)</sup> OJ L 334, 17.12.2010, p. 17.

<sup>(2)</sup> Ares(2012)1551138.

<sup>(3)</sup> Ares(2013)146.

<sup>(4)</sup> Commission Implementing Decision 2012/115/EU of 10 February 2012 laying down rules concerning the transitional national plans referred to in Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (OJ L 52, 24.2.2012, p. 12).

<sup>(5)</sup> Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (OJ L 309, 27.11. 2001, p. 1).

<sup>(6)</sup> Ares(2013)1984918.

<sup>(7)</sup> Ares(2013)2535734.

<sup>(8)</sup> Ares(2013)3085135.

further remarked that for plant 2 the Kingdom of Spain had used an emission limit value for SO<sub>2</sub> of 800 mg/Nm<sup>3</sup> to calculate the plant's contribution to the TNP ceiling for 2016, on the basis of the provisions of Article 5(2) of Directive 2001/80/EC, which the Commission considered not to be applicable for this purpose. The Commission also noted that for nine plants an emission limit value for NO<sub>x</sub> of 1 200 mg/Nm<sup>3</sup> was used to calculate their contribution to the TNP ceiling for 2016, on the basis of Note 2 to Table C.1 in Appendix C of the Annex to Implementing Decision 2012/115/EU, but no information on the volatile content of the solid fuel used in these plants had been provided, which would justify the application of that Note. The Commission also requested additional information from the Kingdom of Spain about the measures foreseen for each of the plants included in the TNP in order to ensure timely compliance with the emission limit values that will be applicable from 1 July 2020. The Commission finally requested the Kingdom of Spain to provide additional data for plants firing multiple fuels or consisting of different plant types concerning the amount of fuels used, emission limit values, average waste gas flow rates and conversion factors for each of the fuels used or each of the plant types separately.

- (7) In its letter of 30 September 2013 <sup>(1)</sup>, supplemented by letter of 10 October 2013 <sup>(2)</sup>, the Kingdom of Spain replied to the questions of the Commission and provided additional data. For plant 2, the Kingdom of Spain reiterated its view that there was no need to change the SO<sub>2</sub> emission limit value used as it considered that Article 5(2) of Directive 2001/80/EC was applicable in this respect. For plant 5, the Kingdom of Spain continued to argue that it was entitled to use a combination of the minimum desulphurisation rate method and the emission limit value method. The Kingdom of Spain provided information concerning the volatile content of the solid fuel used in the period 2001-2010 by the nine plants for which a NO<sub>x</sub> emission limit value of 1 200 mg/Nm<sup>3</sup> had been applied to calculate the 2016 ceiling, which showed that only for plants 3, 4 and 19 the average annual volatile content of the solid fuel used was below 10 % in each of the years between 2001 and 2010, while for the plants 13, 15, 17, 18, 24 and 25 the average annual level was exceeding 10 % during one or more years. The Kingdom of Spain argued that for all nine plants the average value of the volatile content over the whole reference period (2001-2010) was below the value mentioned in Note 2 to Table C.1 in Appendix C of the Annex to Implementing Decision 2012/115/EU.
- (8) Based on the information received from the Spanish authorities on 30 September 2013 and 10 October 2013, the Commission noted that for multiple fuel types plants, for which emission limit values for all fuels fired have been provided, and for one plant for which emission limit value averaged for all fuels fired has been provided, it is necessary to clarify how the contributions to the total ceilings from those plants were calculated, specifying the emission limit values and the average annual waste gas flow rates used for each fuel fired in those plants.
- (9) After the final assessment of the TNP notified by the Kingdom of Spain, as amended in accordance with the additional information and including the large combustion plants listed in Annex I to this decision, the Commission identified three main elements as not being in compliance with the applicable provisions, as follows:
- in case of plant 2: the Commission considers the application of the emission limit value of 800 mg/Nm<sup>3</sup> for SO<sub>2</sub> for calculating its contribution to the 2016 TNP ceiling on the basis of Article 5(2) of Directive 2001/80/EC, as that emission limit value is not referred to in the second subparagraph of Article 32(3) of Directive 2010/75/EU, as not appropriate;
  - in case of plant 5: the Commission considers the method of calculating its contribution to the TNP ceiling for SO<sub>2</sub>, combining the minimum desulphurisation rate approach and the emission limit value approach, as not appropriate;
  - in case of plants 13, 15, 17, 18, 24 and 25: the Commission considers the application of the emission limit value of 1 200 mg/Nm<sup>3</sup> for NO<sub>x</sub> for calculating their contribution to the 2016 TNP ceiling, as the conditions to apply this emission limit value, which are set out in Note 2 of Table C1 to Appendix C of the Annex to Implementing Decision 2012/115/EU, are not fulfilled, as not appropriate.
- (10) In addition, the Commission identified several plants in the TNP where the information is still inconsistent and/or missing data need to be supplemented. The full list of missing data and requests for clarification is included in Annex II to this decision.
- (11) Hence, the TNP notified by the Kingdom of Spain should not be accepted.

<sup>(1)</sup> Ares(2013)3145031.

<sup>(2)</sup> Ares(2013)3217081.

HAS ADOPTED THIS DECISION:

*Article 1*

1. The transitional national plan which the Kingdom of Spain notified to the Commission pursuant to Article 32(5) of Directive 2010/75/EU on 14 December 2012, which includes the large combustion plants listed in Annex I to this decision, is not in accordance with the requirements laid down in Article 32(1), (3) and (4) of Directive 2010/75/EU and in Implementing Decision 2012/115/EU, and shall, therefore, not be accepted.

2. If the Kingdom of Spain intends to implement a transitional national plan pursuant to Article 32(5), it shall take all necessary measures to address, in a revised version of the plan, the following elements:

- (a) for plant 2, to correct the emission limit value applied for calculating its contribution to the SO<sub>2</sub> ceiling for 2016; the plant is not eligible for using the emission limit value of 800 mg/Nm<sup>3</sup> for SO<sub>2</sub> for calculating its contribution to the 2016 TNP ceiling on the basis of Article 5(2) of Directive 2001/80/EC, as that emission limit value is not referred to in the second subparagraph of Article 32(3) of Directive 2010/75/EU;
- (b) for plant 5, to correct the method applied for calculating its contribution to the 2016 TNP ceiling for SO<sub>2</sub>; that contribution shall be calculated for the entire period

2001-2010 either on the basis of the minimum desulphurisation rate, or on the basis of the emission limit values;

- (c) for plants 13, 15, 17, 18, 24 and 25: to correct the emission limit values applied for calculating their contribution to the NO<sub>x</sub> ceiling for 2016; in order for the plants to be eligible for using the emission limit value of 1 200 mg/Nm<sup>3</sup>, the Kingdom of Spain shall demonstrate that the average annual volatile content of the solid fuel used in the plants was below 10 % in the reference years considered for the TNP;
- (d) to correctly update the total emission ceilings for all years calculated in accordance with the corrected values mentioned in the previous points;
- (e) to clarify all issues and complement the data as mentioned in Annex II to this decision.

*Article 2*

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 17 December 2013.

*For the Commission*  
Janez POTOČNIK  
*Member of the Commission*

## ANNEX I

## LIST OF PLANTS INCLUDED IN THE TNP

Number	Plant name in the TNP	Total rated thermal input on 31.12.2010 (MW)
1	C.T. Litoral I	1 222
2	C.T. Litoral II	1 268
3	C.T. Compostilla I (G2 and 3)	1 332
4	C.T. Compostilla I (G4 and 5)	1 960
5	C.T. As Pontes	3 800
6	C.T. Teruel (Andorra)	3 000
7	C.T. Besós 3 (CTCC)	722
8	C.T. San Roque (G2) (CTCC)	711
9	C.T. Foix	1 315
10	C.T. Los Barrios	1 645
11	C.T. Puentenuevo	976
12	C.T. Tarragona I (CTCC)	676
13	C.T. Anllares	953
14	C.T. La Robla I	691
15	C.T. La Robla II	951
16	C.T. Meirama	1 437
17	C.T. Narcea I	193
18	C.T. Narcea II	459
19	C.T. Narcea III	993
20	C.T. Aboño I	919
21	C.T. Aboño II	1 364
22	C.T. Soto III	830
23	C.T. de Lada 4	986
24	C.T. de Velilla 1	430
25	C.T. de Velilla 2	1 010

Number	Plant name in the TNP	Total rated thermal input on 31.12.2010 (MW)
26	Central GICC Puertollano	670
27	San Ciprián I	147
28	San Ciprián II	147
29	San Ciprián III	147
30	Cogecan	93
31	Sniace Co-generation I	126
32	Sniace Co-generation II	126
33	Solal	146
34	Solvay I	376

*ANNEX II***LIST OF DATA REFERRED TO IN POINT (E) OF ARTICLE 1(2)**

1. For plant 6 which uses a desulphurisation rate of 92 % in 2016: clarification shall be provided if conditions for application of this value as set in table C3 to Appendix C of the Annex to Implementing Decision 2012/115/EU are met (a contract for fitting a flue gas desulphurisation or a lime injection equipment has entered into effect, and work on its installation has commenced, before 1 January 2001).
2. For plants 1, 2, 3, 4, 6, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 30 and 34: clarification shall be provided on how the contributions from those plants were calculated to the total TNP ceilings.
3. For plant 34: data on the waste gas flow rates for each fuel fired in this plant shall be provided separately.

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