C/2025/5381

3.10.2025

AGREEMENT

whereby Germany and Poland join the Joint Procurement Agreement to procure Common Auction Platforms

(C/2025/5381)

This Agreement is made and entered into force on 9 July 2025 by and between:

— the European Commission (the 'Commission') on its own account and on behalf of the Member States which are parties to Joint Procurement Agreement to procure Common Auction Platforms (accordingly, the 'participating Member States' and the 'Joint Procurement Agreement'), represented for the purposes of this Agreement by Kurt Vandenberghe, Director-General of the Directorate-General for Climate Action;

and

— Germany, represented for the purposes of this Agreement by Dr. Philipp Nimmermann State Secretary in the Federal Ministry for Economic Affairs and Climate Action;

— Poland, represented for the purposes of this Agreement by Paulina Hennig-Kloska, Minister for Climate and Environment.

This Agreement is concluded pursuant to Article 37 of the Joint Procurement Agreement.

PREAMBLE

WHEREAS:

(1) The Joint Procurement Agreement entered into by and between the Commission and the participating Member States, as provided for in Article 26(1) of Commission Delegated Regulation (EU) 2023/2830 ([1]), sets out in particular the practical rules for the evaluation of the requests for participation or the tenders, the award of the contract, the law applicable to the contract and the competent court for hearing disputes.

(2) Pursuant to Article 29 of Delegated Regulation (EU) 2023/2830, Germany and Poland did not participate in the joint action as provided for in Article 26(1) of that Delegated Regulation and appointed their own opt-out platform for the auctioning of their respective volume of allowances in respect of maritime transport activities, stationary installations and aviation.

(3) Delegated Regulation (EU) 2023/2830 does not provide for the possibility of appointing an opt-out platform for the auctioning of allowances under Chapter IVa of Directive 2003/87/EC. The auctioning of those allowances should therefore be carried out by the common auction platform.

(4) It is therefore necessary that Germany and Poland appoint common auction platforms to auction the allowances under Chapter IVa of Directive 2003/87/EC together with the other Member States pursuant to Article 26(1) of Delegated Regulation (EU) 2023/2830, following a joint procurement procedure between those other Member States and the Commission.

([1]) Commission Delegated Regulation (EU) 2023/2830 of 17 October 2023 supplementing Directive 2003/87/EC of the European Parliament and of the Council by laying down rules on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances (OJ L, 2023/2830, 20.12.2023, ELI: http://data.europa.eu/eli/reg_del/2023/2830/oj).

(5) Participation of Germany and Poland in the joint action pursued through a joint procurement procedure and in the resulting appointment of common auction platforms should thus be facilitated by their becoming parties to the Joint Procurement Agreement.

(6) Pursuant to Article 37(1) of the Joint Procurement Agreement, a non-participating Member State may join the joint action provided for in that Agreement, by signing a joining agreement, which may take the form of an amendment to that Agreement, setting out the terms and conditions subject to which the joining Member State may join that Agreement. This Agreement sets out the terms and conditions for Germany and Poland to join the Joint Procurement Agreement for the purpose of appointing common auction platforms to auction allowances under Chapter IVa of Directive 2003/87/EC.

(7) Pursuant to Article 37(2) of the Joint Procurement Agreement, each participating Member State authorises the Commission to sign on its behalf a joining agreement with a non-participating Member State, subject to the approval of the Joint Procurement Steering Committee of a Commission proposal to this effect.

(8) On 10 October 2024, the Joint Procurement Steering Committee approved, pursuant to Article 13(1) of the Joint Procurement Agreement, the Commission proposal to allow Germany and Poland to join the Joint Procurement Agreement.

(9) Nothing in this Agreement affects the rights and obligations of Member States or the Commission under the Treaties. Nothing in this Agreement affects the rights and obligations of Germany and Poland with regard to the appointment of their own opt-out platform for the auctioning of their respective volume of allowances in respect of maritime transport activities, stationary installations and aviation pursuant to Article 29 of Delegated Regulation (EU) 2023/2830,

PARTIES TO THIS AGREEMENT HAVE AGREED

on the terms below including the following Annex:

Annex – Confirmation of completion of national procedures for the approval of this Agreement or the absence of a need for such procedures in accordance with Article 4(4)

Article 1

Subject Matter

This Agreement amends the Joint Procurement Agreement pursuant to Articles 37 and 48 of the latter agreement. Upon the entry into force of this Agreement, Germany and Poland shall become parties to the Joint Procurement Agreement for the purpose of nominating common auction platforms to auction allowances under Chapter IVa of Directive 2003/87/EC.

Article 2

Terms of Coverage

1. Germany and Poland shall be bound, as of the entry into force of this Agreement, by the Joint Procurement Agreement in its entirety, including any Annexes thereto, save where this Agreement amends the Joint Procurement Agreement for the purpose of nominating common auction platforms to auction allowances under Chapter IVa of Directive 2003/87/EC.

2. Germany and Poland shall be bound, as of the entry into force of this Agreement, by all acts already adopted in connection with the Joint Procurement Agreement as of the date of entry into force of the Joint Procurement Agreement, for the purpose of nominating common auction platforms to auction allowances under Chapter IVa of Directive 2003/87/EC.

3. The terms 'participating Member State' and 'Contracting Party' as referred to in the Joint Procurement Agreement shall be understood, as of the entry into force of this Agreement, to include Germany and Poland.

Article 3

Amendments, Term and Termination

1. Upon its entry into force in accordance with Article 4(4), this Agreement shall become an integral part of the Joint Procurement Agreement. The general terms of the Joint Procurement Agreement shall apply also to this Agreement save where this Agreement amends the Joint Procurement Agreement.

2. Any amendments to this Agreement shall only be made in accordance with Article 48 of the Joint Procurement Agreement and shall constitute changes to the latter agreement.

Article 4

Signature and Entry into Force

1. This Agreement shall be established and executed in the official languages of the Union set out in Annex IV to the Joint Procurement Agreement, each linguistic version being equally authentic.

2. The Commission, on the one hand, and Germany and Poland, on the other hand, shall sign one original of this Agreement.

3. The Commission shall act as depository of this Agreement. It shall supply duly certified copies of this Agreement to each of the participating Member States as soon as practicable.

4. This Agreement shall enter into force 14 days following either the day on which the Commission, on the one hand, and Germany and Poland, on the other hand, have signed this Agreement or the day on which Germany and Poland have submitted to the Commission the confirmation of completion of national procedures for the approval of this Agreement or confirmation of the absence of a need for such procedures, whichever is later. Such confirmation shall be completed in accordance with the template set out in the Annex.

Germany and Poland may waive the 14-day waiting period for the entry into force of this Agreement by submitting a declaration, in accordance with the template set out in the Annex, together with its submission of confirmation as referred to in the first subparagraph.

Article 5

Publication

This Agreement and any amendments thereto shall be published in all official languages of the Union in the 'C' Series of the *Official Journal of the European Union*.

IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Agreement.

Signed in Brussels, on 25 June 2025.

(1) For the European Commission:
Kurt VANDENBERGHE
Director-General of the Directorate-General for Climate Action

Signed in Berlin, on 14 April 2025.

(2) For Germany:
Dr. Philipp NIMMERMANN
State Secretary at the Federal Ministry for Economic Affairs and Climate Action

Signed in Warsaw, on 9 June 2025

(3) For Poland:
Paulina HENNIG-KLOSKA
Minister for Climate and Environment