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"I/A" ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Decision of the European Parliament and of the Council concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (**first reading**) - Adoption of the legislative act (**LA + S**)

Statement by Finland

"Finland supports the establishment of Market Stability Reserve which has the potential to strengthen the effectiveness of the Emission Trading System and increase its ability to adapt to external shocks.

Emission Trading System should create predictability for the markets and the threshold for interventions and renewal of the trading terms should remain high. Predictability is of crucial importance to energy investments and therefore it is essential that the agreed MSR rules are clear, lasting and unambiguous.

Finland highlights the need to guarantee the global competitiveness of European energy-intensive industries. In this regard it is important that the upcoming ETS review will look into the impact of the MSR on growth, jobs, the European Union's industrial competitiveness and on the risk of carbon leakage.

It is also important to consider the establishment of an EU-level system to compensate for the indirect costs of EU ETS for energy-intensive industries. In addition Finland emphasizes that the promotion of low-carbon investments in all Member States should be considered in future EU innovation funding."

Statements by the Commission

"In line with European Council Conclusions of October 2014 the ETS review will inter alia consider whether unallocated allowances should be used for addressing the risk of carbon leakage."

"The temporary exemption foreseen in Art 1.3, 2nd subparagraph does not constitute a precedent for the ETS review."

Joint statement by Poland, Bulgaria, Romania, Croatia and Hungary

"Poland, Bulgaria, Romania, Croatia and Hungary cannot support the final compromise text in relation to the proposal for a Decision of the European Parliament and of the Council concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC.

Poland, Bulgaria, Romania, Croatia and Hungary support all necessary and appropriate measures aiming at addressing the number of allowances and international credits on the ETS market. However these Member States are of the opinion that such measures should ensure long-term predictability for market participants and should also fully respect all European Council conclusions in relation to the EU climate and energy policy.

Poland, Bulgaria, Romania, Croatia and Hungary are strongly opposed to make the market stability reserve operational prior to 2021. In our view, the early operation of the reserve (from 2019) together with the placing of the back-loaded and unallocated allowances directly into the reserve will not only change the current legal framework of the 2010-2020 Climate and Energy Framework, but it will seriously undermine the predictability of the carbon market for industry as well.

In addition, the transfer of 900 million back-loaded allowances directly into the market stability reserve will result in a significant decrease in the EU ETS cap in the 2013-2020 period and therefore increase the 20% GHG emissions reduction target agreed by the European Council back in 2007 and reconfirmed in 2008. It is also worth to recall that according to the European Council Conclusions of 23 and 24 October 2014, the main European instrument to achieve emissions reduction target will be a well-functioning, reformed ETS with an instrument to stabilize the market *in line with the Commission proposal*, which has suggested 2021 as the year of the entry into force of the market stability reserve. In this context the final compromise contradicts these conclusions of the European Council.

In the course of the negotiations, Poland raised the issue of the legal basis used for the MSR Decision. This decision will significantly affect the Member States' choice between different energy sources and the general structure of its energy supply, it is our understanding it should be subject to unanimity in the Council in accordance with the special legislative procedure and after consultation with the European Parliament on the basis of article 192 (2)(c) of the Treaty on the Functioning of the European Union.

Poland, Bulgaria, Romania, Croatia and Hungary are fully convinced that the mechanism managing the surplus of allowances will have a significant impact on the EU ETS Market. Controlling the supply of allowances from the auction volume will have considerable economic, social and financial consequences for the Member States as well as for the industry exposed to a risk of carbon leakage. Despite repeated requests during the negotiations, the Impact Assessment fails to specify the possible scale of the potential impacts such as on the price of allowances, on the price of electricity and other economic and social aspects, including especially those related to the amendments introduced during the negotiations in the Council and the European Parliament. Therefore we cannot support the final agreement which was reached without taking full account of the direct and indirect impacts and lead to lack of transparency and legal uncertainty for ETS market participants."