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Subject: Proposal for a Directive of the European Parliament and of the Council
amending Directive 2003/87/EC to enhance cost-effective emission
reductions and low-carbon investments
- Orientation debate

1. The Commission adopted its proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments ¹ on 15 July 2015.
2. The Commission presented the legislative proposal and the accompanying impact assessment to the Working Party on the Environment (WPE) on 7 September 2015. Following the presentation, delegations presented their preliminary comments and questions for further clarification.

¹ 11065/15 + ADD 1 + ADD 2 + ADD 3

3. At its meetings on 22 September and 6 October 2015, the WPE heard further explanations from the Commission and continued its examination of the proposal and the impact assessment. At the latter meeting, the WPE also began a detailed examination of the legislative proposal. At this early stage in discussions, all delegations maintain a scrutiny reservation on the proposal, and several delegations have entered a parliamentary scrutiny reservation.
4. The European Parliament appointed Mr Ian Duncan (ECR) as Rapporteur for the file on 16 September 2015.
5. The consultation of the European Economic and Social Committee and the Committee of the Regions was launched on 21 September 2015.
6. On this basis, the Presidency has prepared a short background note with three questions to guide the policy debate which will be held at the Council (Environment) at its meeting on 26 October 2015.
7. The Committee of Permanent Representatives is invited to take note of the above-mentioned questions, as contained in the Annex to this note, and to forward them to the Council.
8. The Presidency invites delegations to provide written replies before the Council meeting.

I. Background

At its meeting on 23-24 October 2014, the European Council agreed on the 2030 climate and energy policy framework for the European Union and endorsed a binding EU target of an at least 40% domestic reduction in greenhouse gas emissions by 2030 compared to 1990 ². That ambitious new objective is reflected in the contribution submitted on 6 March 2015 by the EU and its Member States with a view to COP21 in Paris. The implementation of the 2030 climate and energy policy framework is also an integral element in building an Energy Union with a forward-looking climate policy in the EU.

According to the October 2014 European Council conclusions, a well-functioning, reformed EU Emissions Trading System (EU ETS) will be the main European instrument to achieve the 2030 target. To achieve the target as cost-effectively as possible, the sectors covered by the EU ETS will need to reduce their emissions by 43% by 2030 compared to 2005, while the corresponding reduction in the non-ETS sectors will be 30%.

In the context of the reform of the EU ETS, the recently adopted Decision on the Market Stability Reserve ³ already made some important structural changes to the design of the system. The new Commission proposal constitutes a more comprehensive review of the ETS directive ⁴ and aims to translate into legislation the strategic guidance and main principles relating to the EU ETS set out in the October 2014 European Council conclusions, including the following key elements:

² EUCO 169/14

³ 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 (not yet published in the OJ).

⁴ 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, OJ L 275 , 25.10.2003, p. 32.

- Change to the annual linear factor from 1.74% to 2.2% from 2021 onwards;
- Continuation of free allocation and measures to prevent the risk of carbon leakage after 2020;
- Support for low-carbon innovation in all Member States and modernisation of the energy sector in low income Member States;
- Distribution of allowances to be auctioned.

In addition, the proposal contains new provisions on, amongst others, the use of auction revenue, and adapts the existing references to the use of the Regulatory Procedure with scrutiny to the system of delegated and implementing acts.

II. Questions

Against this background and to seek political guidance on the way forward, the Presidency invites the Council (Environment) to address the following questions:

1. *Do the proposed reforms in combination with the recently adopted Market Stability Reserve adequately strengthen the EU ETS to serve as the key tool to deliver Europe's climate objectives in the next decade, including climate finance for vulnerable third countries?*
2. *Do the proposed free allocation rules strike the right balance between addressing the risk of carbon leakage to safeguard the competitiveness of energy-intensive industry, and strengthening the incentive to innovate in the transition to a low-carbon economy?*
3. *Are the proposed low carbon funding mechanisms for industrial innovation and energy sector modernisation a sufficient stimulus for public and private investments needed to achieve the 2030 climate target?*