Council of the
European Union

Brussels, 27 October 2015
(OR. en)

13455/15

Interinstitutional File:
2015/0148 (COD)

CLIMA 118
ENV 654
ENER 368
TRANS 343
IND 161
COMPET 478
MI 673
ECOFIN 811
IA 14
CODEC 1419

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	11065/15 CLIMA 88 ENV 499 ENER 289 TRANS 241 IND 116 COMPET 370 MI 498 ECOFIN 621 CODEC 1059 - COM(2015) 337 final
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 - V4+2 common lines on the draft revision of the EU ETS

Delegations will find attached, for information, the common lines of the V4+2 (CZ, SK, PL, HU, BG, RO) on the draft revision of the EU ETS, referred to at the meeting of the Council (Environment) on 26 October 2015

ANNEX

October 2015

V4+2 common lines on the draft revision of the EU ETS
- on behalf of the Czech Republic, Slovakia, Poland, Hungary, Bulgaria and Romania -

1. The V4+2 group considers the reform of the EU ETS Directive an important step to achieve the EU emission reduction goal until 2030 and to further progress towards low-carbon European economy in a cost-effective and competitive manner while bearing in mind the socio-economic costs of long-term transition to climate neutrality and climate resilience. We appreciate the work of the European Commission on a revision of the Directive. The proposal brings many crucial changes to the current EU ETS settings, which will undoubtedly require further analysis, justifications and intensive debates both on technical and political level.

2. Taking into account lessons learned, the reform should ensure that EU ETS becomes more efficient, transparent, fair and predictable, while reducing administrative burden. It should also balance the emission reduction needs with real economic situation, development of industry and specificities in different Member States. The balance is highly important to provide sufficient incentives for European industries to make investments into low-emission technologies (i.e. avoiding investment leakage) and, simultaneously, not endanger EU's industrial competitiveness. In this context, we regret that the assessment of the proposal's impact is not sufficiently substantiated in line with competitiveness proofing standards.

3. The V4+2 underlines that according to the decision of the European Council of October 2014 the reform of the ETS directive aims at implementing the agreement to reduce GHG emissions in the EU by at least 40% by 2030 in comparison to 1990 levels. Any further reductions beyond that date need to be decided unanimously by the European Council.

4. Regarding the specific parts of the proposal, particular attention should be paid to rules for determination of **benchmarks** used for calculation of free allocation The proposed flat rate of the benchmark value reduction may not reflect the real technology progress and potential for innovations in individual industrial sectors. Therefore we believe that the benchmark values and allocation should be based on recent assessment of the technology progress in those sectors. This approach would also better correspond with the European Council conclusions from October 2014.

5. Furthermore, we fully respect the intention that only sectors at genuine risk of **carbon leakage** should be eligible to receive 100% free allocation after 2020. Nevertheless, the proposed changes of the rules for inclusion of industrial sectors on the carbon leakage list suggest that most sectors are going to be excluded from the current list and would receive significantly reduced allocation. This stringent approach constitutes a very sensitive issue and therefore it should be further considered and duly justified. In this context, we are open to discuss introduction of more allocation categories (than the proposed 100 % and 30 %) as well as further examine the proposed numerical thresholds, in order to better reflect the real risk of carbon leakage among individual sectors. In addition, there is a risk that the proposed settings could lead to an application of the cross-sectoral correction factor which might lower compensation even for the best performers.

6. New rules for **free allocation** should provide sufficient flexibility in order to avoid or effectively solve undesirable effects including windfall profits, unfounded low allocation or disruption of competition, while preserving the environmental integrity and business protection and providing sufficient incentives for low-carbon investments. In this context, we consider that it would be useful to further explore the possibility of dynamic allocation in order to aligning the free allocation with changing production levels.

7. The **Innovation Fund** (IF) represents another important aspect to be examined, particularly the distribution of its increased financial sources. Unlike the current experience with NER 300 and its regional distribution, the IF should ensure better geographical balance and respect technologically neutral approach. This would create better incentives for national actors to develop, submit and implement their individual projects. We support the extension of the scope by way of including the low-carbon innovation in industry. We thus welcome that for example Carbon Capture and Utilization (CCU) technologies, which can help secure global level playing field for the European energy intensive industry, can become eligible as well. We are ready to discuss further means for support of CCU.

8. We appreciate the continuation of **Article 10c** which represents one of the key instruments to promote low-carbon investments in the energy sector. It is important to have clear indication, which subjects and which types of projects shall be eligible for such support, regardless of the way of their selection. The proposed competitive bidding process should be also clarified in more detail. A common way of determining the allocation should be included in the proposal. Our preferred option in this regard is the use of benchmarking method (as mentioned in the impact assessment). It is important to ensure that the agreed total amount of allowances for power sector will not be further reduced by additional restrictions.

9. The **Modernization Fund** will constitute an important tool to improve energy efficiency and to modernize energy sector. Member States have the right to determine their own energy mix and therefore they should have appropriate flexibility to choose and finance projects, which are consistent with their national policies and priorities and which, at the same time, contribute to European climate and energy goals. The setting of the management structure and function of the Fund should properly respect such principle and be fully in line with the agreement at the European Council in October 2014. Thorough discussion will be needed on technical details, such as eligible type of projects, timing or intensity of support. We are of the opinion that the Modernization Fund should cooperate with established national programmes and funds in order to lower administrative burden and streamline support and implementation of small projects on MS level.

10. The right of the Member States to decide on the use of the EU ETS **auction revenues** should be maintained and safeguarded.

11. An adequate coordination with the Member States when preparing the implementing legislation needs to be guaranteed. We are concerned about the number of **delegated acts** proposed and will strive to ensure that essential elements of the proposal are dealt with by appropriate involvement of Member States within the decision-making process.

12. Sufficient time between the final approval of the proposal, its **transposition into national laws** and the start of phase 4 should be provided.

13. Finally, the **V4+2 will support revision of the EU ETS, which will:**

    1) Provide long-term, stable and effective low-carbon framework and appropriate price signal to drive cost-effective low-carbon transition at EU level,

    2) Be aligned with the European Council conclusions from October 2014,

    3) Ensure that conflict between EU industrial and climate policies is avoided,

    4) Consider the outcomes of the COP 21.