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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments and Decision (EU) 2015/1814 (first reading) - Adoption of the legislative act = Statements

Statement by Slovenia and Portugal

Slovenia and Portugal support the reform of the EU emissions trading system (EU ETS) and recognize that the agreement on the Phase 4 (2021–2030) legislation significantly strengthens the functioning of the EU ETS.

The most important adjustments in the EU ETS, which are necessary to deliver the EU target of cutting greenhouse gas emissions by at least 40% by 2030, as agreed under the 2030 climate and energy framework, are the increase of the Linear Reduction Factor, as well as adjustments to the Market Stability Reserve and the distribution of free allocation. Slovenia and Portugal also welcome the agreement that provisions of the new ETS directive will be kept under regular review, including carbon leakage rules and the LRF, and that the Commission will assess the need for additional policies or measures in the context of each stock take under the Paris Agreement.

Despite the mentioned positive elements of reform of the EU ETS, the agreement reached in trialogue exceeds the agreement on the 2030 climate and energy framework in elements connected to the Modernisation Fund (MF). Slovenia and Portugal believe that the conditional increase of the MF beyond the 2% of total cap as agreed by the European Council in October 2014, is not justified as an element of solidarity, as the MF benefits only Member States with a GDP of less than 60% of the EU average. As other elements of the EU ETS also benefit exclusively these same Members States, the agreed conditional increase disrupts the balance of the agreement of the European Council.

Considering that the mentioned threshold is arbitrary and excludes other less developed Member States such as Slovenia and Portugal, with a GDP per capita quite under the EU average, which also have challenges in the transformation of the energy sector, we hope this increase will not be made, but moreover that any future reform of the EU ETS will restore the initially agreed balance as regards solidarity mechanisms included in the EU ETS.

Furthermore, in the final compromise the conditional increase of the MF was also meant to address the concerns of the European Parliament regarding just transition to low carbon societies. We would like to stress that such a transition will be challenging for the whole EU. Therefore, the future reviews of the legislation should address just transition in a wider scope and not only in the context of the least developed EU Member States.

Statements by the Commission

Linear Reduction Factor (LRF)

The EU ETS is the EU's key instrument to achieving the EU climate goal of limiting global average temperature increase to well below 2 degrees Celsius above pre-industrial level as also agreed in the context of the Paris Agreement. In line with this objective and the 2030 climate and energy policy framework, the revision of the EU ETS and the increase of the linear reduction factor from 1.74% to 2.2% are the first steps in delivering on the EU's target to reduce greenhouse gas emissions by at least 40% domestically by 2030. The Commission acknowledges that further efforts and more ambition are needed to achieve the EU's 2050 GHG objective to reduce GHG emissions in line with reaching the long-term targets of the Paris Agreement and its Impact Assessment accompanying the 2030 climate and energy framework states that the cap equal to this level would require a further increase of the linear reduction factor until 2050. As part of any future review of this Directive, the Commission undertakes to consider an increase of the linear reduction factor in the light of international developments calling for an increased stringency of Union policies and measures.

Maritime emissions

The Commission takes note of the European Parliament's proposal. In April 2018, the IMO is expected to decide on the initial GHG emission reduction strategy for ships. The Commission will swiftly assess and duly report on this outcome, in particular the emission reduction objectives and list of candidate measures to achieve them, including the timeline for adoption of such measures. When doing so it will consider which next steps are appropriate to ensure a fair contribution of the sector, including the way forward proposed by Parliament. In the context of new legislative measures on maritime greenhouse gas emissions, the Commission will duly consider amendments in this regard adopted by the European Parliament.

Just transition in coal and carbon-intensive regions

The Commission re-iterates the commitment to develop a dedicated initiative which will provide tailor made support for the just transition in coal and carbon-intensive regions in Member States concerned.

To this end, it will work in partnership with the stakeholders of these regions to provide guidance, in particular for the access to and use of relevant funds and programmes, and encourage exchange of good practices, including discussions on industrial roadmaps and re-skilling needs.

CCU

The Commission takes note of the European Parliament's proposal to exempt emissions verified as captured and used ensuring a permanent bound from surrender obligations under the EU ETS. Such technologies are currently insufficiently mature for a decision on their future regulatory treatment. In view of the technological potential of CO₂ Carbon Capture and Use (CCU) technologies, the Commission undertakes to consider their regulatory treatment in the course of the next trading period, with a view to considering whether any changes to the regulatory treatment are appropriate by the time of any future review of the Directive. In this regard, the Commission will give due consideration to the potential of such technologies to contribute to substantial emissions reductions while not compromising the environmental integrity of the EU ETS.

Statement by the Republic of Croatia

The Republic of Croatia supports the goals and objectives of the 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, since we consider the proposal to be of crucial importance for the EU's climate policy and for the successful implementation of the Paris Agreement.

However, the Republic of Croatia considers that the current text of Directive 2003/87/EC and the current proposal on amendments to Directive 2003/87/EC put Croatia on an unequal footing as regards the total amount of allowances to be auctioned by Member States, and appropriate changes were therefore requested during negotiations.

The Republic of Croatia still considers it necessary to amend the second subparagraph of Article 10(2) of Directive 2003/87/EC, given that the current provision does not cover the calculation of the Croatian share of auctioning rights. The provision in question stipulates from which year verified emissions should be used for Member States which did not participate in the Community scheme in 2005. In this regard, at the Environment Council on 28 February 2017, the Republic of Croatia put forward a proposal to delete the wording '*under the Community scheme*' from the second subparagraph of Article 10(2) of Directive 2003/87/EC.

We recall that in 2013, the European Commission calculated the Republic of Croatia's auctioning rights without taking into consideration all of the parameters agreed on during negotiations on the Republic of Croatia's accession to the European Union. To calculate the Republic of Croatia's auctioning rights, the European Commission used the Republic of Croatia's total amount of greenhouse gas emissions under the trading system, as fixed for inclusion in the total amount of EU emissions, rather than the verified emissions for 2007, as had been agreed during the negotiations. It should be stressed that the total amount for the Republic of Croatia is lower, and results in fewer auctioning rights for the Republic of Croatia. Furthermore, while the total amount is lower for all other Member States, all other Member States' auctioning rights were calculated based on verified emissions for either 2005 or 2007 or the 2005-2007 average, depending on which was more favourable to them.

We therefore proposed the above amendment so as to avoid potentially different interpretations as regards the application of the provisions of Directive 2003/87/EC to the Republic of Croatia and, accordingly, to ensure the consistent and uniform application of point (a) of Article 10(2) of the Directive in all Member States, including the Republic of Croatia. Since the above amendment was not included in the final compromise text, the Republic of Croatia will abstain in relation to the adoption of this legislative proposal.