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#### **INFORMATION NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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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  
- Outcome of the European Parliament's first reading  
(Strasbourg, 13 to 16 February 2017)

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#### **I. INTRODUCTION**

The Committee on the Environment, Public Health and Food Safety submitted 138 amendments (amendments 1-80 and 82-139 <sup>1</sup>) to the plenary. In addition:

- the ENF political group submitted two amendments (amendments 140-141);
- the EPP political group submitted three amendments (amendments 142-144);
- the EUL/NGL political group submitted four amendments (amendments 145-148);
- 38 or more MEPs submitted four amendments (amendments 149 and 163-5);
- the Greens/EFA political group submitted one amendment (amendment 150); and
- the ECR political group submitted ten amendments (amendments 151-159 and 162 <sup>2</sup>).

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<sup>1</sup> The Committee's amendment 81 was deleted prior to the vote in plenary.

<sup>2</sup> The ECR submitted but withdrew amendments 160 and 161.

## II. DEBATE

The Rapporteur, Ian Duncan (ECR - UK), opened the debate, which took place on 13 February 2017 and:

- recalled that before Christmas, when a mandate from the Committee on the Environment, Public Health and Food Safety was still planned, he had doubted that it would be possible to get such a mandate. Indeed, he had sought to resign at one point, but his resignation had been rejected by his committee colleagues. He therefore welcomed the fact that a plenary-level mandate now appeared to be on the cards;
- expressed the hope that the adoption of his report by the plenary would bring home to the Council the need to deliver on the EU's Paris ambitions;
- warned against any attempt to unpick the committee's compromise package, lest this cause the whole package to collapse; and
- stressed the need to make the agreement "Brexit-proof", but left specific details on that score to the negotiations themselves.

Speaking on behalf of the Committee on Industry, Research and Energy, Mr Fredrick FEDERLEY (ALDE - SE):

- recalled that his committee has shared competence with the Committee on the Environment, Public Health and Food Safety on some sections of the proposal. More than 80% of the ITRE members supported the report. It had therefore been possible to avoid a cross-sectoral correction factor. The vast majority of his committee's proposals had been taken into the report of the Committee on the Environment, Public Health and Food Safety; and
- agreed with the Rapporteur that it would be a mistake to try to unpick the compromise package.

Commissioner CAÑETE:

- called for the EU to lead from the front and put its commitments into a clear and binding framework;
- noted that the Committee's package would double the feeding rate of the market stability reserve;

- stressed the need to preserve the competitiveness of EU industry and avoid the carbon-leakage risk. He welcomed the elements in the Committee's package intended to cater for the needs of business;
- noted that the Committee's package would retain the flat-rates architecture of the Commission's proposal as regards the update of the benchmarks for free allocation, and would further enhance the role of verified data. It would therefore reward faster moving sectors by setting a maximum contribution and ensure that slow moving sectors also play their part by requiring a minimum contribution of 0.25%; and
- stressed the importance of increasing the innovative power of the EU ETS as a driver for investment in low-carbon technologies. He noted that the Parliament was discussing the sending of a clear signal on the need to boost the Innovation Fund for the benefit of European companies and to ensure that the Modernisation Fund stimulates decarbonisation in lower-income Member States. It is important, when examining these funds, to bear in mind their effects on member States' auction revenues and to favour elements that would bring the Council and the Parliament together.

Speaking on behalf of the Committee on Development, Mr Florent MARCELLESI (Greens/EFA - ES):

- expressed his regret that some of his committee's proposals had not been taken on board, notably the complete revision of the system in 2018 and the specific economic designation for the International Climate Fund; but
- welcomed the proposed phase-out of free allocations for the cement sector and measures on carbon leakage.

Speaking on behalf of the EPP political group, Mr Ivo BELET (EPP - BE):

- opposed the carbon adjustment mechanism and the fact that it will be targeted on particular sectors such as lime and cement. This would damage cement and lime producers who export outside the EU. Worse, it would be implemented through a delegated act. He therefore supported the moderate proposal of the Committee on Industry, Research and Energy. He also recalled that the cement sector continues to fall under the general system so that allowances will be allocated only to the 10% best performers;

- noted that the Commission's proposed Linear Reduction Factor of 2.2% is much more ambitious than the current level; and
- noted the ambition of the Commission's proposal as regards the Market Stability Reserve.

Speaking on behalf of the S&D political group, Mrs Jytte GUTELAND (S&D - SE):

- argued that, whilst the EU ETS is a vital tool, no one would claim that it is perfect;
- set out three key principles for her political group:
  - the EU ETS will deliver on the Paris commitments;
  - the EU ETS will be fairer for industry, removing current imbalances; and
  - worker involvement.
- called for a Linear Reduction Factor of at least 2.4%;
- called for more investment in innovation as a way to help industry;
- stressed the need for a social adjustment fund; and
- called for support for the compromise package.

Speaking on behalf of the ECR political group, Mrs Julie GIRLING (ECR - UK):

- noted the issue of Member States having the final say over the use of their receipts from the EU ETS. In order to ensure their continued commitment, there would be rejection of the issues of fiscal sovereignty;
- called for an evidence-based approach. The Parliament should not introduce new components that have not been the subject of an impact assessment; and
- expressed concern at the late inclusion of a border-adjustment mechanism without any study of its impacts or costs. Her political group does not consider this to be the way to prevent carbon-leakage. The provision of free allocations for those sectors most at risk is the best way forward.

Speaking on behalf of the ALDE political group, Mr Gerben-Jan GERBRANDY (ALDE - NL):

- argued that the committee-level package was not ambitious enough, even though
  - the Linear Reduction Factor would be increased;
  - 800 million allowances would be cancelled; and
  - a way had been found to limit the amount of free allowances granted to industrial sectors with low trade intensity without endangering their international competitiveness;

- identified several points where the committee package would dilute the Commission's proposal:
  - the annual benchmark would be lowered;
  - the threshold for qualitative assessment would be lowered; and
  - a door had been opened to lowering the auction share;
- warned that the objective of limiting global warming to just two degrees means that the world has only twenty years left of current global emissions. A 1.5 degree target leaves just five years.

Speaking on behalf of the EUL/NGL political group, Mrs Kateřina KONEČNÁ (EUL/NGL - CZ) noted that the compromise package contained bad elements (e.g. sub-optimal protection of EU industry) as well as good elements, but also stressed the need for all parties to be open to compromise so that the plenary would adopt its negotiating mandate with a large degree of support.

Speaking on behalf of the Greens/EFA political group, Mr Bas EICKHOUT (Greens/EFA - NL):

- noted that the committee-level compromise package was ambitious but also contained a large degree of additional protection for industry (e.g. protecting the fertiliser and steel sectors, a larger innovation fund, new benchmarks and a compensation fund for indirect costs). Yet the package is still under attack - simply because one sector was still complaining; and
- stressed the fact that auctioning is the rule. Singling out sectors by granting them free allowances is singling out and should be limited to those sectors that are exposed to international competition. The cement sector has actually increased exports because of free allowances and has halted innovation because it is dependent on free allowances and needs to maintain high-carbon cement. The cement sector earned €5 billion windfall profits during the last ETS phase. It is therefore important to address this approach by the cement sector to innovation. Free allocation to the cement sector is to cease, but the cement sector will benefit from the border adjustment measure. From now on free allowances will be granted only to those sectors that deserve them.

Speaking on behalf of the EFDD political group, Mrs Eleonara EVI (EFDD - IT) stressed the need to achieve real rather than virtual reductions in emissions.

Speaking on behalf of the ENF political group, Mrs Mireille D'ORNANO (ENF - FR):

- opposed the reform of the EU ETS on legal grounds as well as on principle;
- opposed the strengthening of the Commission's prerogatives as well as the inclusion of the maritime and international aviation sectors - in disregard of the competences of the IMO and the ICAO;
- argued that the new constraints would benefit low-cost states, which are often unscrupulous when it comes to the environment; and
- warned that the Chinese steel industry is flooding the EU, which has been a net importer since 2015. The proposed reform would lead to further job losses in France and the rest of the EU.

Mrs Diane JAMES (NI - UK):

- condemned the EU ETS as "a shameful litany of mismanagement, hidden subsidies, lobby power, environmental degradation, job losses, theft and fraud";
- asked what risk analysis had been performed; and
- warned that the proposal would increase unemployment and export pollution.

Mrs Esther DE LANGE (EPP - NL):

- called for support for the proposal of the Committee on Industry, Research and Energy as regards 5% additional free allowances; and
- noted that the EPP political group would prefer the broader and fairer wording of the Committee on Industry, Research and Energy as regards the border adjustment mechanism.

Mr Edouard MARTIN (S&D - FR):

- argued that reductions in emissions were not primarily due to the EU ETS but rather to the economic downturn;
- stated that there is general agreement that the current carbon price is too low to encourage investment in low-carbon technology. It is therefore necessary to increase the Linear Reduction Factor to 2.4% and to scrap 800 million tonnes of surplus allowances;
- called for a border-adjustment mechanism for cement;

- stated that it is perfectly legitimate for the EU as an act of solidarity to finance an envelope specifically for economically less advantaged countries, but argued that it is equally legitimate to require these sums to be invested in energy projects that are in accordance with a common route plan. The new proposed criteria would allow all beneficiary countries to modernise their infrastructure; and
- supported the fund for a fair transition for workers.

Mr Mark DEMESMAEKER (ECR - BE):

- called for the right balance to be struck between climate protection and employment;
- warned that carbon leakage destroys EU jobs whilst doing nothing to reduce climate change; and
- supported the committee-level package.

Mrs Sofia SAKORAFI (EUL/NGL - GR) stressed the importance of the Greek cement industry.

Mrs Barbara KAPPEL (ENF - AT) stressed the need for tested border adjustment measures and expressed her concern about the impact of carbon leakage on EU employment.

Dr Peter LIESE (EPP - DE):

- warned against increasing the burden on companies that have already invested heavily in emissions reduction;
- stated that delegated acts might not be appropriate in all cases; and
- supported amendment 144.

Mrs Miriam DALLI (S&D - MT):

- stressed industry's need for predictability and stability;
- called for the right balance to be struck between the environment and industry;
- recognised the need to support sectors that genuinely need it, but stated that windfall profits are unacceptable; and
- supported the committee-level package as well balanced.

Mr Giovanni LA VIA (EPP - IT) supported the committee-level package as ambitious and a good basis for negotiation with the Council.

Mrs Jadwiga WIŚNIEWSKA (ECR - PL):

- stressed industry's need for stable emissions prices;
- warned of the risk to employment posed by carbon leakage; and
- opposed the restrictive Linear Reduction Factor and the incomprehensible attack on the cement sector.

Mr Jerzy BUZEK (EPP - PL):

- opposed an increase in the Linear Reduction Factor;
- stressed the need for free allowances for the cement sector; and
- called for control of the Modernisation Fund to remain with the beneficiary countries, with the advise of the European Investment Bank.

Mrs Christel SCHALDEMOSE (S&D - DK) supported a 2.4% Linear Reduction Factor.

Mr Herbert REUL (EPP - DE) argued that the cement sector has a good record on emissions and should not be treated punitively.

Mr Bendt BENDTSEN (EPP - DK):

- opposed any attempt to regulate maritime emissions without involving the IMO; and
- warned that the border adjustment mechanism might lead to issues with the WTO.

Mr Krišjānis KARIŅŠ (EPP - LV) called for the Commission to consider including a carbon tax in its next proposal.

Mr Ivica TOLIĆ (EPP - HR):

- stated that carbon leakage had destroyed EU jobs;
- opposed amendments 12 and 84 on the grounds that they would destroy 3,000 jobs in the Croat cement sector; and
- stated that the standards set for the steel sector are technically unachievable.



Mr Peter van DALEN (ECR - NL) argued that the maritime sector should be covered by the EU ETS in the near future, noting that 2021 is the deadline for securing an IMO-level agreement.

Mr Nikos ANDROULAKIS (S&D - GR) drew attention to the current plight of the Greek economy and, arguing for the use of 2014 and 2015 as a benchmark rather than 2013, called for the adoption of amendment 49.

Mr Seán KELLY (EPP - IE) welcomed the qualitative assessment being reduced to 1.2 and expressed the hope that that can be done at Prodcom rather than NACE-4 level.

Commissioner CAÑETE once more took the floor and called for a strong Parliament position in advance of negotiations with the Council.

The Rapporteur once more took the floor and stressed the need to meet the Paris commitments. Industry should be protected in a sensible manner, but it also needs to perform its duty.

### **III. VOTE**

When it voted on 15 February 2017, the plenary adopted 138 amendments (amendments 1-5, 7-26, 28-39, 41-80, 82-83, 85-102, 104-139, 142-4, 159 and 165) to the proposal for a Directive.

Following an oral intervention from the Rapporteur, the plenary then approved his request for the proposal to be referred back to the Committee on the Environment, Public Health and Food Safety with a view to entering into inter-institutional negotiations.

The text of the amendments adopted by the plenary is set out in the annex to this document.

## P8\_TA-PROV(2017)0035

### Cost-effective emission reductions and low-carbon investments \*\*\*I

Amendments adopted by the European Parliament on 15 February 2017 on 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 (COM(2015)0337 – C8-0190/2015 – 2015/0148(COD))<sup>3</sup>

**(Ordinary legislative procedure: first reading)**

Amendment 1

#### Proposal for a directive Recital 1

*Text proposed by the Commission*

(1) Directive 2003/87/EC of the European Parliament and of the Council<sup>15</sup> established a system for greenhouse gas emission allowance trading within the Union in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner.

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<sup>15</sup> 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).

*Amendment*

(1) Directive 2003/87/EC of the European Parliament and of the Council<sup>15</sup> established a system for greenhouse gas emission allowance trading within the Union in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner ***as well as the sustainable strengthening of Union industry against the risk of carbon and investment leakage.***

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<sup>15</sup> 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).

#### Amendment 2

#### Proposal for a directive Recital 2

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<sup>3</sup> The matter was referred back for interinstitutional negotiations to the committee responsible pursuant to Rule 59(4), fourth subparagraph (A8-0003/2017).

*Text proposed by the Commission*

(2) The European Council of October 2014 made a commitment to reduce the overall greenhouse gas emissions of the Union by at least 40% below 1990 levels by 2030. All sectors of the economy should contribute to achieving **these** emission reductions and the target **will** be delivered in the most cost-effective manner through the Union emission trading system (EU ETS) delivering a reduction of 43% below 2005 levels by 2030. This was confirmed in the intended nationally determined reduction commitment of the Union and its Member States submitted to the Secretariat of the *UN* Framework Convention on Climate Change on 6 March 2015<sup>16</sup>.

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<http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx>

*Amendment*

(2) The European Council of October 2014 made a commitment to reduce the overall greenhouse gas emissions of the Union by at least 40% below 1990 levels by 2030. All sectors of the economy should contribute to achieving **those** emission reductions and the target **is to** be delivered in the most cost-effective manner through the Union emission trading system (EU ETS) delivering a reduction of 43% below 2005 levels by 2030. This was confirmed in the intended nationally determined reduction commitment of the Union and its Member States submitted to the Secretariat of the **United Nations** Framework Convention on Climate Change (UNFCCC) on 6 March 2015. **The effort of emission reductions should be fairly shared between the sectors covered by the EU ETS.**

### Amendment 3

#### Proposal for a directive Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

**(2a) In order to honour the agreed commitment that all sectors of the economy contribute to the fulfilment of the target of reducing the overall greenhouse gas emissions of the Union by at least 40% below 1990 levels by 2030, it is important that the EU ETS, despite being the Union's primary tool to achieve its long-term climate and energy targets, is complemented by equivalent additional**

*actions taken in other legal acts and instruments dealing with greenhouse gas emissions from sectors not covered by the EU ETS.*

#### **Amendment 4**

#### **Proposal for a directive Recital 2 b (new)**

*Text proposed by the Commission*

*Amendment*

*(2b) Under the Agreement adopted in Paris at the 21<sup>st</sup> Conference of the Parties of the UNFCCC of 12 December 2015 (the ‘Paris Agreement’), countries are required to put policies in place to achieve more than 180 Intended Nationally Determined Contributions (INDCs) that cover some 98% of global greenhouse gas emissions. The Paris Agreement is aimed at limiting the increase in the global average temperature to well below 2° C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1,5° C above pre-industrial levels. Many of those policies are expected to involve carbon pricing or similar measures, and therefore a revision clause should be laid down in this Directive to allow the Commission, where appropriate, to propose stricter emissions reductions after the first stocktaking exercise under the Paris Agreement in 2023, an adjustment to the provisions for transitional carbon leakage to reflect the development of carbon pricing mechanisms outside the Union, and additional policy measures and tools to enhance the greenhouse gas reduction commitments of the Union and its Member States. The revision clause should also ensure that a communication is adopted within six months of the facilitative dialogue under the UNFCCC in 2018 assessing the consistency of the Union’s climate change legislation with*

*the Paris Agreement goals.*

## Amendment 5

### Proposal for a directive Recital 2 c (new)

*Text proposed by the Commission*

*Amendment*

*(2c) In accordance with the Paris Agreement and in line with the commitment of the co-legislators expressed in Directive 2009/29/EC of the European Parliament and of the Council<sup>1a</sup> and Decision No 406/2009/EC of the European Parliament and of the Council<sup>1b</sup>, all sectors of the economy are required to contribute to the reduction of carbon dioxide (CO<sub>2</sub>) emissions. To this end, efforts to limit international maritime emissions through the International Maritime Organisation (IMO) are under way and should be encouraged, with the aim of establishing a clear IMO action plan for climate policy measures to reduce CO<sub>2</sub> emissions from shipping at a global level. The adoption of clear targets to reduce international maritime emissions through the IMO has become a matter of great urgency and a prerequisite for the Union to refrain from acting further on the inclusion of the maritime sector within the EU ETS. If, however, any such agreement is not reached by the end of 2021, the sector should be included under the EU ETS and a fund should be established for ship operators' contributions and collective compliance relating to CO<sub>2</sub> emissions already covered by the Union system for monitoring, reporting and verification (MRV system) laid down in Regulation (EU) 2015/757 of the European Parliament and of the Council<sup>1c</sup> (emissions released in Union ports and during voyages to and from such ports). A share of revenues from the auction of allowances to the maritime*

*sector should be used to improve energy efficiency and support investments in innovative technologies for the reduction of CO2 emissions in the maritime sector, including short sea shipping and ports.*

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<sup>1a</sup> *Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (OJ L 140, 5.6.2009, p. 63).*

<sup>1b</sup> *Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (OJ L 140, 5.6.2009, p. 136).*

<sup>1c</sup> *Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).*

## Amendment 143

### Proposal for a directive Recital 3

*Text proposed by the Commission*

(3) *The European Council confirmed that* a well-functioning, reformed EU ETS with an instrument to stabilise the market will be the main European **instrument** to

*Amendment*

(3) A well-functioning, reformed EU ETS with an **enhanced** instrument to stabilise the market will be the main European **instruments** to achieve this

achieve this target, with an annual reduction factor of 2.2% from 2021 onwards, free allocation not expiring but **existing** measures continuing after 2020 to prevent the risk of carbon leakage due to climate policy, as long as no comparable efforts are undertaken in other major economies, **without reducing the share of allowances to be auctioned**. The auction share should be expressed as a percentage figure in the legislation, to enhance planning certainty as regards investment decisions, to increase transparency **and** to render the overall system simpler and more easily understandable.

target, with an annual reduction factor of 2,2% from 2021 onwards, free allocation not expiring but measures continuing after 2020 to prevent the risk of carbon leakage due to climate policy, as long as no comparable efforts are undertaken in other major economies. The auction share should be expressed as a percentage figure in the legislation, ***which should decline on application of a cross-sectoral correction factor*** to enhance planning certainty as regards investment decisions, to increase transparency, to render the overall system simpler and more easily understandable, ***and to protect those sectors most at risk of carbon leakage from a cross-sectoral correction factor. Those provisions should be kept under review in line with the Paris Agreement and adjusted accordingly if necessary to fulfil the Union's climate obligations pursuant to that agreement.***

## Amendment 7

### Proposal for a directive Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) Least Developed Countries (LDCs) are particularly vulnerable to the effects of climate change and are responsible only for very low levels of greenhouse gas emissions. Therefore, particular priority should be given to addressing the needs of LDCs through the use of EU ETS allowances to finance climate action, in particular adaptation to the impacts of climate change through the UNFCCC Green Climate Fund.***

## Amendment 8

### Proposal for a directive

## Recital 4

### *Text proposed by the Commission*

(4) It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving this requires continuation of ambitious climate action with the EU ETS as the cornerstone of **Europe's** climate policy, and progress on the other aspects of Energy Union<sup>17</sup>. Implementing the ambition decided in the 2030 framework contributes to delivering a meaningful carbon price and continuing to stimulate cost-efficient greenhouse gas emission reductions.

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<sup>17</sup> COM(2015)80, establishing a Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy

### *Amendment*

(4) It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens **and industries**. Achieving this requires continuation of ambitious climate action with the EU ETS as the cornerstone of **Union's** climate policy, and progress on the other aspects of Energy Union<sup>17</sup>. ***The interaction of the EU ETS with other Union and national climate and energy policies that have an impact on the demand for EU ETS allowances needs to be taken into account.*** Implementing the ambition decided in the 2030 framework **and adequately addressing the progress on other aspects of the Energy Union** contributes to delivering a meaningful carbon price and **to** continuing to stimulate cost-efficient greenhouse gas emission reductions.

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<sup>17</sup> COM(2015)80, establishing a Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy

## Amendment 9

### Proposal for a directive Recital 4 a (new)

### *Text proposed by the Commission*

### *Amendment*

***(4a) Increased ambition in energy efficiency compared to the 27% target adopted by the Council should lead to more free allowances for industry at risk of carbon leakage.***



## Amendment 10

### Proposal for a directive Recital 5

#### *Text proposed by the Commission*

(5) Article 191(2) of the Treaty on the Functioning of the European Union requires that Union policy is based on the principle that the polluter should pay and, on this basis, Directive 2003/87/EC provides for a transition to full auctioning over time. Avoiding carbon leakage is a justification to postpone full **transition**, and targeted free allocation of allowances to industry is justified in order to address genuine risks of increases in greenhouse gas emissions in third countries where industry is not subject to comparable carbon constraints as long as comparable climate policy measures are not undertaken by other major economies.

#### *Amendment*

(5) Article 191(2) of the Treaty on the Functioning of the European Union requires that Union policy is based on the principle that the polluter should pay and, on this basis, Directive 2003/87/EC provides for a transition to full auctioning over time. Avoiding carbon leakage is a justification to **temporarily** postpone full **auctioning**, and targeted free allocation of allowances to industry is **a justified exception to the principle that the polluter should pay, provided that no over-allocation occurs**, in order to address genuine risks of increases in greenhouse gas emissions in third countries where industry is not subject to comparable carbon constraints as long as comparable climate policy measures are not undertaken by other major economies. **To that end, allocation of free allowances should be more dynamic in accordance with thresholds provided for in this Directive.**

## Amendment 11

### Proposal for a directive Recital 6

#### *Text proposed by the Commission*

(6) The auctioning of allowances remains the general rule, with free allocation as the exception. Consequently, **and as confirmed by the European Council**, the share of allowances to be auctioned, which **was** 57% over the period **2013-2020**, should **not** be reduced. The Commission's Impact Assessment<sup>18</sup> provides details on the auction share and

#### *Amendment*

(6) The auctioning of allowances remains the general rule, with free allocation as the exception. Consequently, the share of allowances to be auctioned, which **should be** 57% over the period **2021-2030**, should be reduced **on application of the cross sectoral correction factor to protect those sectors most exposed to the risk of carbon**

specifies that this 57% share is made up of allowances auctioned on behalf of Member States, including allowances set aside for new entrants but not allocated, allowances for modernising electricity generation in some Member States and allowances which are to be auctioned at a later point in time because of their placement in the Market Stability Reserve established by **Decision (EU) 2015/...** of the European Parliament and of the Council<sup>19</sup>.

**leakage.** The Commission's Impact Assessment provides details on the auction share and specifies that this 57% share is made up of allowances auctioned on behalf of Member States, including allowances set aside for new entrants but not allocated, allowances for modernising electricity generation in some Member States and allowances which are to be auctioned at a later point in time because of their placement in the Market Stability Reserve established by **Decision (EU) 2015/1814** of the European Parliament and of the Council<sup>19</sup>. ***A just Transition Fund should be established to support regions with a high share of workers in carbon-dependent sectors and a GDP per capita well below the Union average.***

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<sup>18</sup> **SEC(2015)XX**

<sup>19</sup> Decision (EU) **2015/...** of the European Parliament and of the Council of ... concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (**OJ L [...], [...], p. [...]**).

<sup>19</sup> Decision (EU) **2015/1814** of the European Parliament and of the Council of **6 October 2015** concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (**OJ L 264, 9.10.2015, p. 1**).

## Amendment 12

### Proposal for a directive Recital 7

#### *Text proposed by the Commission*

(7) To preserve the environmental benefit of emission reductions in the Union while actions by other countries do not provide comparable incentives to industry to reduce emissions, free allocation should continue to installations in sectors and sub-sectors at genuine risk of carbon leakage. Experience gathered during the operation of the EU ETS confirmed that sectors and sub-sectors are at risk of carbon leakage to

#### *Amendment*

(7) To preserve the environmental benefit of emission reductions in the Union while actions by other countries do not provide comparable incentives to industry to reduce emissions, free allocation should **temporarily** continue to installations in sectors and sub-sectors at genuine risk of carbon leakage. Experience gathered during the operation of the EU ETS confirmed that sectors and sub-sectors are

varying degrees, and that free allocation has prevented carbon leakage. While some sectors and sub-sectors can be deemed at a higher risk of carbon leakage, others are able to pass on a considerable share of the costs of allowances to cover their emissions in product prices without losing market share and only bear the remaining part of the costs so that they are at a low risk of carbon leakage. The Commission should determine and differentiate the relevant sectors based on their trade intensity and their emissions intensity to better identify sectors at a genuine risk of carbon leakage. Where, based on these criteria, a threshold determined by taking into account the respective possibility for sectors and sub-sectors concerned to pass on costs in product prices is exceeded, the sector or sub-sector should be deemed at risk of carbon leakage. Others should be considered at a low risk or at no risk of carbon leakage. Taking into account the possibilities for sectors and sub-sectors outside of electricity generation to pass on costs in product prices should also reduce windfall profits.

at risk of carbon leakage to varying degrees, and that free allocation has prevented carbon leakage. While some sectors and sub-sectors can be deemed at a higher risk of carbon leakage, others are able to pass on a considerable share of the costs of allowances to cover their emissions in product prices without losing market share and only bear the remaining part of the costs so that they are at a low risk of carbon leakage. The Commission should determine and differentiate the relevant sectors based on their trade intensity and their emissions intensity to better identify sectors at a genuine risk of carbon leakage. Where, based on these criteria, a threshold determined by taking into account the respective possibility for sectors and sub-sectors concerned to pass on costs in product prices is exceeded, the sector or sub-sector should be deemed at risk of carbon leakage. Others should be considered at a low risk or at no risk of carbon leakage. Taking into account the possibilities for sectors and sub-sectors outside of electricity generation to pass on costs in product prices should also reduce windfall profits. ***The risk of carbon leakage in sectors and subsectors for which free allocation is calculated on the basis of the benchmark values for aromatics, hydrogen and syngas should also be assessed considering that these products are produced both in chemical plants and refineries.***

## Amendment 13

### Proposal for a directive Recital 8

#### *Text proposed by the Commission*

(8) In order to reflect technological progress in the sectors concerned and adjust them to the relevant period of allocation, provision should be made for

#### *Amendment*

(8) In order to reflect technological progress in the sectors concerned and adjust them to the relevant period of allocation, provisions should be made for

the values of the benchmarks for free allocations to installations, determined on the basis of data from the years **2007-8**, to be updated in line with observed average improvement. For reasons of predictability, this should be done through applying a factor that represents the **best** assessment of progress **across** sectors, which should then take into account robust, objective and verified data from installations so that sectors whose rate of improvement differs considerably from this factor have a benchmark value closer to their actual rate of improvement. Where the data shows a difference from factor reduction of more than **0,5%** of the **2007-8 value** higher or lower per year over the relevant period, the related benchmark value **shall** be adjusted by that percentage. To ensure a level playing field for the production of aromatics, hydrogen and syngas in refineries and chemical plants, the benchmark values for aromatics, hydrogen and syngas should continue to be aligned to the refineries benchmarks.

the values of the benchmarks for free allocations to installations, determined on the basis of data from the years **2007 and 2008**, to be updated in line with observed average improvement. For reasons of predictability, this should be done through applying a factor that represents the **actual** assessment of progress **by the 10% most efficient installations in** sectors, which should then take into account robust, objective and verified data from installations so that sectors whose rate of improvement differs considerably from this factor have a benchmark value closer to their actual rate of improvement. Where the data shows a difference from factor reduction of more than **1,75%** of the **value corresponding to the years of 2007 and 2008 (either** higher or lower) per year over the relevant period, the related benchmark value **should** be adjusted by that percentage. **Where, however, the data shows an improvement rate of either 0,25 or less over the relevant period, the related benchmark value should be adjusted by that percentage.** To ensure a level playing field for the production of aromatics, hydrogen and syngas in refineries and chemical plants, the benchmark values for aromatics, hydrogen and syngas should continue to be aligned to the refineries benchmarks.

## Amendment 14

### Proposal for a directive Recital 9

#### *Text proposed by the Commission*

(9) Member States should partially compensate, **in accordance with state aid rules**, certain installations in sectors or sub-sectors which have been determined to be exposed to a significant risk of carbon leakage because of costs related to greenhouse gas emissions passed on in

#### *Amendment*

(9) **In pursuing the goal of a level playing field**, Member States should partially compensate, **through a centralised system at Union level**, certain installations in sectors or sub-sectors which have been determined to be exposed to a significant risk of carbon leakage because

electricity prices. ***The Protocol and accompanying decisions adopted by the Conference of the Parties in Paris need to provide for the dynamic mobilisation of climate finance, technology transfer and capacity building for eligible Parties, particularly those with least capabilities.*** Public sector climate finance will continue to play an important role in mobilising resources after 2020. Therefore, auction revenues should also be used for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate. The amount of climate finance to be mobilised will also depend on the ambition and quality of the proposed ***Intended Nationally Determined Contributions (INDCs)***, subsequent investment plans and national adaptation planning processes. Member States should also use auction revenues to promote skill formation and reallocation of labour affected by the transition of jobs in a decarbonising economy.

of costs related to greenhouse gas emissions passed on in electricity prices. Public sector climate finance will continue to play an important role in mobilising resources after 2020. Therefore, auction revenues should also be used for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate ***change***. The amount of climate finance to be mobilised will also depend on the ambition and quality of the proposed ***INDCs***, subsequent investment plans and national adaptation planning processes. Member States should also ***address the social aspects of decarbonising their economies and*** use auction revenues to promote skill formation and reallocation of labour affected by the transition of jobs in a decarbonising economy. ***It should be possible for Member States to add to the compensation received through the centralised system at Union level. Such financial measures should not exceed the levels referred to in the relevant state aid guidelines.***

## Amendment 15

### Proposal for a directive Recital 10

#### *Text proposed by the Commission*

(10) The main long-term incentive from this Directive for ***the*** capture and storage of ***CO<sub>2</sub>*** (CCS), new renewable energy technologies and breakthrough innovation in low-carbon technologies and processes is the carbon price signal it creates and that allowances will not need to be surrendered for CO<sub>2</sub> emissions which are permanently stored or avoided. In addition, to supplement the resources already being used to accelerate demonstration of commercial CCS facilities and innovative renewable energy technologies, EU ETS

#### *Amendment*

(10) The main long-term incentive from this Directive for ***carbon*** capture and storage (CCS) ***and carbon capture and use (CCU)***, new renewable energy technologies and breakthrough innovation in low-carbon technologies and processes is the carbon price signal it creates and that allowances will not need to be surrendered for CO<sub>2</sub> emissions which are permanently stored or avoided. In addition, to supplement the resources already being used to accelerate demonstration of commercial CCS ***and CCU*** facilities and

allowances should be used to provide guaranteed rewards for deployment of CCS facilities, new renewable energy technologies and industrial innovation in low-carbon technologies and processes in the Union for CO<sub>2</sub> stored or avoided on a sufficient scale, provided an agreement on knowledge sharing is in place. The majority of this support should be dependent on verified avoidance of greenhouse gas emissions, while some support may be given when pre-determined milestones are reached taking into account the technology deployed. The maximum percentage of project costs to be supported may vary by category of project.

innovative renewable energy technologies, EU ETS allowances should be used to provide guaranteed rewards for deployment of **CCS and CCU** facilities, new renewable energy technologies and industrial innovation in low-carbon technologies and processes in the Union for CO<sub>2</sub> stored or avoided on a sufficient scale, provided an agreement on knowledge sharing is in place. The majority of this support should be dependent on verified avoidance of greenhouse gas emissions, while some support may be given when pre-determined milestones are reached taking into account the technology deployed. The maximum percentage of project costs to be supported may vary by category of project.

## Amendment 16

### Proposal for a directive Recital 11

#### *Text proposed by the Commission*

(11) A Modernisation Fund should be established from 2% of the total EU ETS allowances, and auctioned in accordance with the rules and modalities for auctions taking place on the Common Auction Platform set out in Regulation 1031/2010. Member States **who** in 2013 had a GDP per capita at market exchange rates **of** below 60% **below** the Union average should be eligible for funding from the Modernisation Fund **and** derogate **up to 2030** from the principle of full auctioning for electricity generation by using the option of free allocation in order to transparently promote real investments modernising their energy sector while avoiding distortions of the internal energy market. The rules for governing the Modernisation Fund should provide a coherent, comprehensive and transparent framework to ensure the most efficient

#### *Amendment*

(11) A Modernisation Fund should be established from 2% of the total EU ETS allowances, and auctioned in accordance with the rules and modalities for auctions taking place on the Common Auction Platform set out in Regulation **(EU) No** 1031/2010. Member States **which** in 2013 had a GDP per capita at market exchange rates below 60% **of** the Union average should be eligible for funding from the Modernisation Fund. **Member States which in 2014 had a GDP per capita in EUR at market prices below 60% of the Union average should be able, up to 2030, to** derogate from the principle of full auctioning for electricity generation by using the option of free allocation in order to transparently promote real investments modernising **and diversifying** their energy sector, **in line with the Union 2030 and 2050 climate and energy goals**, while

implementation possible, taking into account the need for easy access by all participants. ***The function of the governance structure should be commensurate with the purpose of ensuring the appropriate use of the funds. That governance structure should be composed of an investment board and a management committee and due account should be taken of the expertise of the EIB in the decision-making process unless support is provided to small projects through loans from a national promotional banks or through grants via a national programme sharing the objectives of the Modernisation Fund. Investments financed from the fund should be proposed by the Member States. To ensure that the investment needs in low income Member States are adequately addressed, the distribution of funds will take into account in equal shares verified emissions and GDP criteria. The financial assistance from the Modernisation Fund could be provided through different forms.***

avoiding distortions of the internal energy market. The rules for governing the Modernisation Fund should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access by all participants. ***Such rules should be transparent, balanced and commensurate with the purpose of ensuring the appropriate use of the funds. That governance structure should be composed of an investment board, an advisory board and a management committee. Due account should be taken of the expertise of the EIB in the decision-making process unless support is provided to small projects through loans from national promotional banks or through grants via a national programme sharing the objectives of the Modernisation Fund. Investments financed from the fund should be proposed by the Member States and all financing from the fund should comply with specific eligibility criteria.*** To ensure that the investment needs in low income Member States are adequately addressed, the distribution of funds will take into account in equal shares verified emissions and GDP criteria. The financial assistance from the Modernisation Fund could be provided through different forms.

## Amendment 17

### Proposal for a directive Recital 12

#### *Text proposed by the Commission*

(12) The European Council confirmed that the modalities, including transparency, of the optional free allocation to modernise the energy sector in certain Member States should be improved. Investments with a value of €10 million or more should be selected by the Member State concerned

#### *Amendment*

(12) The European Council confirmed that the modalities, including transparency, of the optional free allocation to modernise ***and diversify*** the energy sector in certain Member States should be improved. Investments with a value of ***EUR*** 10 million or more should be selected by the

through a competitive bidding process on the basis of clear and transparent rules to ensure that free allocation is used to promote real investments modernising the energy sector in line with the Energy Union objectives. Investments with a value of less than €10 million should also be eligible for funding from the free allocation. The Member State concerned should select such investments based on clear and transparent criteria. The **results of this** selection process should be subject to public consultation. The public should be duly kept informed at the stage of the selection of investment projects as well as of their implementation.

Member State concerned through a competitive bidding process on the basis of clear and transparent rules to ensure that free allocation is used to promote real investments modernising **or diversifying** the energy sector in line with the Energy Union objectives, **including that of promoting the Third Energy Package**. Investments with a value of less than **EUR** 10 million should also be eligible for funding from the free allocation. The Member State concerned should select such investments based on clear and transparent criteria. The selection process should be subject to public consultation **and the results of such selection process, including rejected projects, should be made publically available**. The public should be duly kept informed at the stage of the selection of investment projects as well as of their implementation. **Member States should have the possibility of transferring part of or all the corresponding allowances to the Modernisation Fund if they are eligible to use both instruments. The derogation should be terminated by the end of the trading period in 2030.**

## Amendment 18

### Proposal for a directive Recital 13

#### *Text proposed by the Commission*

(13) EU ETS funding should be coherent with other Union funding programmes, including European Structural and Investment Funds, so as to ensure the effectiveness of public spending.

#### *Amendment*

(13) EU ETS funding should be coherent with other Union funding programmes, including **Horizon 2020, the European Fund for Strategic Investments**, European Structural and Investment Funds, **and the European Investment Bank (EIB) Climate Investment Strategy**, so as to ensure the effectiveness of public spending.



## Amendment 19

### Proposal for a directive Recital 14

#### *Text proposed by the Commission*

(14) The existing provisions which are in place for small installations to be excluded from the EU ETS ***allow the installations which are excluded to remain so, and*** it should be made possible for Member States to update their list of excluded installations and for Member States currently not making use of this option to do so at the beginning of each trading period.

#### *Amendment*

(14) The existing provisions which are in place for small installations to be excluded from the EU ETS ***should be extended to cover installations operated by small to medium enterprises (SMEs) emitting less than 50 000 tonnes of CO<sub>2</sub> equivalent in each of the three years preceding the year of the application for exclusion.*** It should be made possible for Member States to update their list of excluded installations and for Member States currently not making use of this option to do so at the beginning of each trading period ***and halfway through the period. It should also be possible for installations emitting less than 5 000 tonnes of CO<sub>2</sub> equivalent in each of the three years preceding the beginning of each trading period to be excluded from the EU ETS, subject to revision every five years. Member States should ensure that alternative equivalent measures for installations that have opted out do not result in higher compliance costs. Monitoring, reporting and verification requirements should be simplified for small emitters covered by the EU ETS.***

## Amendment 20

### Proposal for a directive Recital 16 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(16a) In order to considerably reduce the administrative burden faced by companies, it should be left open to the Commission to consider measures such as***

*automating the submission and verification of emissions reports, fully exploiting the potential of information and communication technologies.*

## **Amendment 21**

**Proposal for a directive  
Recital 17 a (new)**

*Text proposed by the Commission*

*Amendment*

*(17a) The delegated acts referred to in Articles 14 and 15 should simplify the rules of monitoring, reporting and verification as far as possible in order to reduce red tape for operators. The delegated act referred to in Article 19(3) should facilitate access to and the use of the registry, especially for small operators.*

## **Amendment 22**

**Proposal for a directive  
Article 1 – point -1 (new)**

*Text proposed by the Commission*

*Amendment*

*(-1) Throughout the Directive, the term 'Community scheme' is replaced by 'EU ETS' and any necessary grammatical changes are made.*

## **Amendment 23**

**Proposal for a directive  
Article 1 – point -1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(-1a) Throughout the Directive, the term 'Community-wide' is replaced by 'Union-wide'.***

## **Amendment 24**

**Proposal for a directive  
Article 1 – point -1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(-1b) Throughout the Directive, except in the cases referred to in points (-1) and (-1a) and in Article 26(2), the term 'Community' is replaced by 'Union' and any necessary grammatical changes are made.***

## **Amendment 25**

**Proposal for a directive  
Article 1 – point -1 c (new)**

*Text proposed by the Commission*

*Amendment*

***(-1c) Throughout the Directive, the words 'regulatory procedure referred to in Article 23(2)' are replaced by the words 'examination procedure referred to in Article 30c(2)'.***

## **Amendment 26**

**Proposal for a directive  
Article 1 – point -1 d (new)**

***(-1d) In Article 3g, in point (d) of Article 5(1), in point (c) of Article 6(2), in the second subparagraph of Article 10a(2), in Article 14(2), (3) and (4), in Article 19(1) and (4) and in Article 29a(4) the word 'regulation' is replaced by the word 'act' and any necessary grammatical changes are made.***

## **Amendment 28**

### **Proposal for a directive Article 1 – point -1 f (new)**

Directive 2003/87/EC

Article 3 – point h

#### *Present text*

- '(h) 'new entrant' means:
- any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emissions permit for the first time after 30 June **2011**,
  - any installation carrying out an activity which is included in the **Community** scheme pursuant to Article 24(1) or (2) for the first time, or
  - any installation carrying out one or more of the activities indicated in Annex I or an activity which is included in the **Community** scheme pursuant to Article 24(1) or (2), which has had a significant extension after 30 June **2011**, only in so far

#### *Amendment*

***(-1f) In Article 3, point (h) is replaced by the following:***

- '(h) 'new entrant' means:
- any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emissions permit for the first time after 30 June **2018**,
  - any installation carrying out an activity which is included in the **Union** scheme pursuant to Article 24(1) or (2) for the first time, or
  - any installation carrying out one or more of the activities indicated in Annex I or an activity which is included in the **Union** scheme pursuant to Article 24(1) or (2), which has had a significant extension after 30 June **2018**, only in so far as this

as this extension is concerned;'

extension is concerned;'

## Amendment 29

### Proposal for a directive Article 1 – point -1 g (new)

Directive 2003/87/EC

Article 3 – point u a (new)

*Text proposed by the Commission*

*Amendment*

***(-1g) In Article 3, the following point is added:***

***'(ua) 'small emitter' means an installation with low emissions which is operated by a small or medium-sized enterprise<sup>1a</sup> and that meets at least one of the following criteria:***

***– the average annual verified emissions of that installation reported to the relevant competent authority during the trading period immediately preceding the current trading period, with the exclusion of CO<sub>2</sub> stemming from biomass and before any subtraction of transferred CO<sub>2</sub>, is less than 50 000 tonnes of carbon dioxide equivalent per year;***

***– the average annual emissions data referred to in the first indent are not available in relation to that installation or are no longer applicable to that installation because of changes in the installation's boundaries or changes to the operating conditions of the installation, but the annual emissions of that installation for the following five years, with the exclusion of CO<sub>2</sub> stemming from biomass and before subtraction of transferred CO<sub>2</sub>, are expected to be less than 50 000 tonnes of carbon dioxide equivalent per year.'***

## Amendment 30

### Proposal for a directive Article 1 – point -1 h (new)

Directive 2003/87/EC

Article 3c – paragraph 2

*Present text*

'2. For the period referred to in Article 13(1) beginning on 1 January 2013, and, in the absence of any amendments following the review referred to in Article 30(4), for each subsequent period, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 95 % of the historical aviation emissions multiplied by the number of years in the period.

*Amendment*

***(-1h) In Article 3c, paragraph 2 is replaced by the following:***

'2. For the period referred to in Article 13 beginning on 1 January 2013, and, in the absence of any amendments following the review referred to in Article 30(4), for each subsequent period, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 95 % of the historical aviation emissions multiplied by the number of years in the period.

***The total quantity of allowances to be allocated to aircraft operators in 2021 shall be 10% lower than the average allocation for the period from 1 January 2014 to 31 December 2016, and then decrease annually at the same rate as that of the total cap for the EU ETS referred to in the second subparagraph of Article 10(1) so as to bring the cap for the aviation sector more in line with the other EU ETS sectors by 2030.***

***For aviation activities to and from aerodromes located in countries outside the EEA, the quantity of allowances to be allocated from 2021 onwards may be adjusted taking into account the future global market-based mechanism agreed by the International Civil Aviation Organisation (ICAO) in its 39th assembly. By 2019, the Commission shall present a***

***legislative proposal to the European Parliament and the Council concerning those activities following the 40th assembly of the ICAO.***

This percentage may be reviewed as part of the general review of this Directive.'

This percentage may be reviewed as part of the general review of this Directive.'

**Amendment 31**

**Proposal for a directive  
Article 1 – point -1 i (new)**

Directive 2003/87/EC

Article 3c – paragraph 4

*Present text*

That decision shall be considered within the Committee referred to in Article **23(1)**.

*Amendment*

***(-1i) In Article 3c(4), the last sentence is replaced by the following:***

That decision shall be considered within the Committee referred to in Article **30c(1)**.

**Amendment 32**

**Proposal for a directive  
Article 1 – point -1 j (new)**

Directive 2003/87/EC

Article 3d – paragraph 2

*Present text*

'2. From 1 January **2013**, **15** % of allowances shall be auctioned. ***This percentage may be increased as part of***

*Amendment*

***(-1j) In Article 3d, paragraph 2 is replaced by the following:***

'2. From 1 January **2021**, **50** % of allowances shall be auctioned.'

*the general review of this Directive.'*

### Amendment 33

#### Proposal for a directive

#### Article 1 – point 1

Directive 2003/87/EC

Article 3d – paragraph 3

#### *Text proposed by the Commission*

(1) In Article **3d(3)**, the **second subparagraph** is replaced by the following:

'The Commission **shall be** empowered to adopt **a** delegated **act** in accordance with Article **23**.';

#### *Amendment*

(1) In Article **3d, paragraph 3** is replaced by the following:

'**3.** The Commission **is** empowered to adopt delegated **acts** in accordance with Article **30b to supplement this Directive by laying down detailed arrangements for the auctioning by Member States of allowances not required to be issued free of charge in accordance with paragraphs 1 and 2 of this Article or Article 3f(8). The number of allowances to be auctioned in each period by each Member State shall be proportionate to its share of the total attributed aviation emissions for all Member States for the reference year reported pursuant to Article 14(3) and verified pursuant to Article 15. For the period referred to in Article 3c(1), the reference year shall be 2010 and for each subsequent period referred to in Article 3c the reference year shall be the calendar year ending 24 months before the start of the period to which the auction relates.'**

### Amendment 34

#### Proposal for a directive

#### Article 1 – point 1 a (new)

Directive 2003/87/EC

Article 3d – paragraph 4 – subparagraph 1



*Present text*

'4. *It shall be for Member States to determine the use to be made of revenues generated from the auctioning of allowances. Those revenues should be used to tackle climate change in the Union and third countries, inter alia, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the Union and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emission transport and to cover the cost of administering the **Community** scheme. The proceeds of auctioning should also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation.*

*Amendment*

**(1a) In Article 3d(4), the first subparagraph is replaced by the following:**

'4. *All revenues shall be used to tackle climate change in the Union and third countries, inter alia, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the Union and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emission transport and to cover the cost of administering the **Union** scheme. The proceeds of auctioning may also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation.*

**Amendment 35**

**Proposal for a directive  
Article 1 – point 1 b (new)**

Directive 2003/87/EC

Article 3e – paragraph 1 a (new)

*Present text*

*Amendment*

**(1b) In Article 3e, the following paragraph is added:**

**'1a. From 2021 onwards, no free allocation of allowances under this Directive shall be granted to the aviation sector unless it is confirmed by a**

*subsequent decision adopted by the European Parliament and the Council, since ICAO Resolution A-39/3 envisages that a global market-based measure is to apply from 2021. In that respect, the co-legislators shall take into account the interaction between that market-based measure and the EU ETS.'*

## **Amendment 36**

### **Proposal for a directive Article 1 – point 2 a (new)**

Directive 2003/87/EC

Chapter II a (new)

*Text proposed by the Commission*

*Amendment*

**(2a) The following Chapter is inserted:**

#### **'CHAPTER IIa**

***Inclusion of shipping in the absence of progress at international level***

##### ***Article 3ga***

##### ***Introduction***

***As from 2021, in the absence of a comparable system operating under the IMO, CO<sub>2</sub> emissions emitted in Union ports and during voyages to and from Union ports of call, shall be accounted for through the system set out in this Chapter, to be operational from 2023.***

##### ***Article 3gb***

##### ***Scope***

***By 1 January 2023, the provisions of this Chapter shall apply to the allocation and issue of allowances in respect of CO<sub>2</sub> emissions from ships within, arriving at or departing from ports under the jurisdiction of a Member State in accordance with the provisions laid down in Regulation (EU) 2015/757. Articles 12***

*and 16 shall apply to maritime activities in the same manner as to other activities.*

#### *Article 3gc*

##### *Extra allowances for maritime sector*

*By 1 August 2021, the Commission shall adopt delegated acts in accordance with Article 30b in order to supplement this Directive by setting the total quantity of allowances for the maritime sector in line with other sectors, the method of allocation of allowances for that sector through auctioning and the special provisions with regard to the administering Member State. When the maritime sector is included in the EU ETS, the total amount of allowances shall be increased by that amount.*

*20% of the revenues generated from the auctioning of allowances referred to in Article 3gd shall be used through the fund established under that Article ('Maritime Climate Fund') to improve energy efficiency and support investments in innovative technologies to reduce CO<sub>2</sub> emissions in the maritime sector, including short sea shipping and ports.*

#### *Article 3gd*

##### *Maritime Climate Fund*

- 1. A fund aimed at compensating for maritime emissions, improving energy efficiency and facilitating investments in innovative technologies to reduce CO<sub>2</sub> emissions of the maritime sector shall be established at Union level.*
- 2. Ship operators may pay, on a voluntary basis, an annual membership contribution to the fund in accordance with their total emissions reported for the preceding calendar year under Regulation (EU) 2015/757. By way of derogation from Article 12(3), the fund shall surrender allowances collectively on behalf of ship operators which are members of the fund. The contribution per tonne of emissions shall be set by the fund by 28 February each year, and shall not be less than the level of the market*

*price for allowances in the preceding year.*

*3. The fund shall acquire allowances equal to the collective total quantity of emissions of its members during the preceding calendar year and surrender them in the registry established under Article 19 by 30 April each year for subsequent cancellation. Contributions shall be made public.*

*4. The fund shall also improve energy efficiency and facilitate investments in innovative technologies to reduce CO2 emissions in the maritime sector, including short sea shipping and ports, through the revenues referred to in Article 3gc. All investments supported by the fund shall be made public and be consistent with the aims of this Directive.*

*5. The Commission is empowered to adopt a delegated act in accordance with Article 30b to supplement this Directive concerning the implementation of this Article.*

#### *Article 3ge*

##### *International cooperation*

*In the event that an international agreement on global measures to reduce greenhouse gas emissions from maritime transport is reached, the Commission shall review this Directive and shall, if appropriate, propose amendments in order to ensure alignment with that international agreement.'*

#### **Amendment 37**

**Proposal for a directive  
Article 1 – point 2 b (new)**

Directive 2003/87/EC

Article 5 – subparagraph 1 – point d a (new)

*Text proposed by the Commission*

*Amendment*

***(2b) In Article 5, subparagraph 1, the following point is added:***

***'(da) all CCU technologies that will be used in the installation in order to help reduce emissions',***

### **Amendment 38**

**Proposal for a directive  
Article 1 – point 2 c (new)**

Directive 2003/87/EC

Article 6 – paragraph 2 – points e a and e b (new)

*Text proposed by the Commission*

*Amendment*

***(2c) In Article 6(2), the following points are added:***

***'(ea) all legal requirements on social responsibility and reporting in order to ensure equal and effective implementation of environmental regulations and ensure that competent authorities and stakeholders, including workers' representatives, representatives of civil society and local communities, have access to all relevant information, as laid down in the Aarhus Convention and implemented in Union and national law, including this Directive;***

***(eb) an obligation to publish every year comprehensive information in respect of combating climate change and compliance with Union directives in the field of the environment, health and safety at work; that information shall be accessible to workers' representatives and to the representatives of civil society from local communities in the vicinity of the***

*installation.'*

## Amendment 39

### Proposal for a directive Article 1 – point 2 d (new)

Directive 2003/87/EC

Article 7

#### *Present text*

##### *'Article 7*

The operator shall inform the competent authority of any planned changes to the nature or functioning of the installation, or any extension or significant reduction of its capacity, which may require updating the greenhouse gas emissions permit. Where appropriate, the competent authority shall update the permit. Where there is a change in the identity of the installation's operator, the competent authority shall update the permit **to include the name and address** of the new operator.'

#### *Amendment*

**(2d) Article 7 is replaced by the following:**

##### *'Article 7*

***Without undue delay***, the operator shall inform the competent authority of any planned changes to the nature or functioning of the installation, or any extension or significant reduction of its capacity, which may require updating the greenhouse gas emissions permit. Where appropriate, the competent authority shall update the permit. Where there is a change in the identity of the installation's operator, the competent authority shall update the permit ***with the relevant identity and contact information*** of the new operator.'

## Amendment 142

### Proposal for a directive Article 1 – point 3

Directive 2003/87/EC

Article 9 – paragraphs 2 and 3

*Text proposed by the Commission*

Starting in 2021, the linear factor shall be 2.2%.

*Amendment*

Starting in 2021, the linear factor shall be 2,2% **and shall be kept under review with a view to increasing it to 2,4% by 2024 at the earliest.**

**Amendment 41**

**Proposal for a directive  
Article 1 – point 4 – point a**

Directive 2003/87/EC

Article 10 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

**(a) three new subparagraphs are added to paragraph 1:**

*Amendment*

**(a) paragraph 1 is replaced by the following:**

**'1. From 2019 onwards, Member States shall either auction or cancel allowances that are not allocated free of charge in accordance with Articles 10a and 10c and are not placed in the MSR.'**

**Amendment 42**

**Proposal for a directive  
Article 1 – point 4 – point a**

Directive 2003/87/EC

Article 10 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

From 2021 onwards, the share of allowances to be auctioned **by Member**

*Amendment*

From 2021 onwards, the share of allowances to be auctioned **or cancelled**

*States* shall be 57%.

shall be 57%, *and that share shall decrease by no more than five percentage points over the entire ten year period beginning on 1 January 2021 pursuant to Article 10a(5). Such an adjustment shall take place solely in the form of a reduction in allowances auctioned pursuant to point (a) of the first subparagraph of paragraph 2. Where no adjustment occurs, or where less than five percentage points are required to make an adjustment, the remaining quantity of allowances shall be cancelled. Such cancellation shall not exceed 200 million allowances.*

#### **Amendment 43**

##### **Proposal for a directive Article 1 – point 4 – point a**

Directive 2003/87/EC

Article 10 – paragraph 1 – subparagraph 3

##### *Text proposed by the Commission*

2% of the total quantity of allowances between 2021 and 2030 shall be auctioned to establish a fund to improve energy efficiency and modernise the energy systems of certain *member states* as set out in Article 10d of this Directive (“the Modernisation Fund”).

##### *Amendment*

2% of the total quantity of allowances between 2021 and 2030 shall be auctioned *in order* to establish a fund to improve energy efficiency and modernise the energy systems of certain *Member States* as set out in Article 10d of this Directive (“the Modernisation Fund”). *The quantity set out in this subparagraph shall form part of the 57% share of allowances to be auctioned as set out in the second subparagraph.*

#### **Amendment 44**

##### **Proposal for a directive Article 1 – point 4 – point a**



Directive 2003/87/EC

Article 10 – paragraph 1 – subparagraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***In addition, 3% of the total quantity of allowances to be issued between 2021 and 2030 shall be auctioned in order to compensate sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs actually incurred as a result of greenhouse gas emission costs being passed on in electricity prices as set out in Article 10a(6) of this Directive. Two thirds of the quantity set out in this subparagraph shall form part of the 57% share of allowances to be auctioned as referred to in the second subparagraph.***

#### **Amendment 45**

**Proposal for a directive  
Article 1 – point 4 – point a**

Directive 2003/87/EC

Article 10 – paragraph 1 – subparagraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

***A Just Transition Fund shall be created as of 1 January 2021 as a complement to the European Regional Development Fund and the European Social Fund and shall be funded through the pooling of 2% of the auctioning revenues.***

***The revenues of those auctions shall remain at Union level, and shall be used to support regions which combine a high share of workers in carbon-dependent sectors and a GDP per capita well below***

*the Union average. Such measures shall respect the principle of subsidiarity.*

*Those auctioning revenues aimed at just transition may be put to use in different ways, such as:*

*- creating redeployments and/or mobility cells,*

*- education/training initiatives to re-skill or upskill workers,*

*- support in job-seeking,*

*- business creation, and*

*- monitoring and pre-emptive measures to avoid or minimise the negative impact of the restructuring process on physical and mental health.*

*Since the core activities to be financed by a Just Transition Fund are strongly related to the labour market, social partners shall be actively involved in the fund management in a manner based on the model of the European Social Fund committee and the participation of local social partners shall be a key requirement for projects to get funding.*

## **Amendment 46**

### **Proposal for a directive Article 1 – point 4 – point a**

Directive 2003/87/EC

Article 10 – paragraph 1 – subparagraph 4

#### *Text proposed by the Commission*

The total remaining quantity of allowances to be auctioned by Member States shall be distributed in accordance with paragraph 2

#### *Amendment*

The total remaining quantity of allowances to be auctioned by Member States, *after deducting the quantity of allowances referred to in the first subparagraph of Article 10a(8)* shall be distributed in accordance with paragraph 2.

## Amendment 47

### Proposal for a directive Article 1 – point 4 – point a

Directive 2003/87/EC

Article 10 – paragraph 1 – subparagraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***On 1 January 2021, 800 million allowances placed in the MSR shall be cancelled.***

## Amendment 48

### Proposal for a directive Article 1 – point 4 – point b – point ii

Directive 2003/87/EC

Article 10 – paragraph 2 – point b

*Text proposed by the Commission*

*Amendment*

(b) 10% of the total quantity of allowances to be auctioned being distributed amongst certain Member States for the purpose of solidarity and growth within the Community, thereby increasing the amount of allowances that those Member States auction under point (a) by the percentages specified in Annex IIa.

(b) 10% of the total quantity of allowances to be auctioned being distributed amongst certain Member States for the purpose of solidarity and growth within the Community, thereby increasing the amount of allowances that those Member States auction under point (a) by the percentages specified in Annex IIa. ***For those Member States eligible to benefit from the Modernisation Fund as set out in Article 10d, their share of allowances specified in Annex IIa shall be transferred to their share in the Modernisation Fund.***

## Amendment 49

### Proposal for a directive

#### Article 1 – point 4 – point b a (new)

Directive 2003/87/EC

Article 10 – paragraph 3 – introductory part

#### *Present text*

'3. Member States shall determine the use of revenues generated from the auctioning of allowances. **At least 50 %** of the revenues generated from the auctioning of allowances referred to in paragraph 2, **including all revenues from the auctioning referred to in paragraph 2, points (b) and (c)**, or the equivalent in financial value of these revenues, **should** be used for one or more of the following:'

#### *Amendment*

**(ba) in paragraph 3, the introductory part is replaced by the following:**

'3. Member States shall determine the use of revenues generated from the auctioning of allowances. **100%** of the **total** revenues generated from the auctioning of allowances referred to in paragraph 2 or the equivalent in financial value of these revenues, **shall** be used for one or more of the following:'

## Amendment 50

### Proposal for a directive

#### Article 1 – point 4 – point b b (new)

Directive 2003/87/EC

Article 10 – paragraph 3 – point b

#### *Present text*

'(b) to develop renewable energies to meet the commitment of the **Community to using 20 %** renewable energies by **2020**, as well as to develop other technologies contributing to the transition to a safe and sustainable low-carbon economy and to

#### *Amendment*

**(bb) in paragraph 3, point (b) is replaced by the following:**

'(b) to develop renewable energies to meet the commitment of the **Union to** renewable energies by **2030**, as well as to develop other technologies contributing to the transition to a safe and sustainable low-carbon economy and to help meet the

help meet the commitment of the **Community** to increase energy efficiency **by 20 % by 2020;**'

commitment of the **Union** to increase energy efficiency by **2030 at the levels agreed in appropriate legislative acts;**'

## Amendment 51

### Proposal for a directive

#### Article 1 – point 4 – point b c (new)

Directive 2003/87/EC

Article 10 – paragraph 3 – point f

#### *Present text*

'(f) to encourage a shift to low-emission and public forms of transport;'

#### *Amendment*

***(bc) in paragraph 3, point (f) is replaced by the following:***

'(f) to encourage a shift to low emission and public forms of transport ***and support - as long as CO2 costs are not similarly reflected for other surface transport modes - electrified transport modes such as railways or other electrified surface transport modes taking into account their indirect EU ETS costs;***'

## Amendment 52

### Proposal for a directive

#### Article 1 – point 4 – point b d (new)

Directive 2003/87/EC

Article 10 – paragraph 3 – point h

#### *Present text*

'(h) measures intended to increase energy efficiency and insulation or to provide

#### *Amendment*

***(bd) in paragraph 3, point (h) is replaced by the following:***

'(h) measures intended to increase energy efficiency, ***district heating systems*** and

financial support in order to address social aspects in lower and middle income households; '

insulation or to provide financial support in order to address social aspects in lower and middle income households;'

### Amendment 53

#### Proposal for a directive Article 1 – point 4 – point c

Directive 2003/87/EC

Article 10 – paragraph 3 – point j

#### *Text proposed by the Commission*

(j) to fund financial measures in favour of sectors or subsectors that are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, provided that these measures meet the conditions set out in Article 10a(6);

#### *Amendment*

(j) to fund financial measures in favour of sectors or subsectors that are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, provided that ***not more than 20% of revenues are used for this purpose, and that*** these measures meet the conditions set out in Article 10a(6);

### Amendment 54

#### Proposal for a directive Article 1 – point 4 – point c

Directive 2003/87/EC

Article 10 – paragraph 3 – point l

#### *Text proposed by the Commission*

(l) to promote skill formation and reallocation of labour affected by the transition of jobs ***in a decarbonising economy*** in close coordination with the

#### *Amendment*

(l) to ***address the social impact of the decarbonisation of their economies and*** promote skill formation and reallocation of labour affected by the transition of jobs in

social partners.

close coordination with the social partners.

## Amendment 55

### Proposal for a directive

#### Article 1 – point 4 – point c a (new)

Directive 2003/87/EC

Article 10 – paragraph 3 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) in paragraph 3, the following subparagraph is inserted:***

***'This information shall be provided through a standardised template prepared by the Commission, including information on the use of auctioning revenues for the different categories and the additionality of the use of the funds. The Commission shall make this information public on its website.'***

## Amendment 56

### Proposal for a directive

#### Article 1 – point 4 – point c b (new)

Directive 2003/87/EC

Article 10 – paragraph 3 – subparagraph 2

*Present text*

*Amendment*

'Member States shall be deemed to have fulfilled the provisions of this paragraph if they have in place and implement fiscal or

***(cb) in paragraph 3, the second subparagraph is replaced by the following:***

'Member States shall be deemed to have fulfilled the provisions of this paragraph if they have in place and implement fiscal or

financial support policies, including in particular in developing countries, or domestic regulatory policies, which leverage financial support, established for the purposes set out in the first subparagraph and which have a value equivalent to **at least 50 % of** the revenues generated from the auctioning of allowances referred to in paragraph 2, **including all revenues from the auctioning referred to in paragraph 2, points (b) and (c).**'

financial support policies, including in particular in developing countries, or domestic regulatory policies, which leverage **additional** financial support, established for the purposes set out in the first subparagraph and which have a value equivalent to **100%** of the revenues generated from the auctioning of allowances referred to in paragraph 2 **and have reported those policies in a standardised template provided by the Commission.**'

## Amendment 57

### Proposal for a directive Article 1 – point 4 – point d

Directive 2003/87/EC

Article 10 – paragraph 4 – subparagraphs 1, 2 and 3

#### *Text proposed by the Commission*

(d) the third **subparagraph of paragraph 4** is replaced by the following:

'The Commission **shall be** empowered to adopt **a** delegated **act** in accordance with Article 23.';

#### *Amendment*

(d) **in paragraph 4, the first, second and third subparagraphs are** replaced by the following:

'4. The Commission **is** empowered to adopt delegated **acts** in accordance with Article 30b **to supplement this Directive by laying down detailed arrangements for timing, administration and other aspects of auctioning to ensure that it is conducted in an open, transparent, harmonised and non-discriminatory manner. To this end, the process shall be predictable, in particular as regards the timing and sequencing of auctions and the estimated volumes of allowances to be made available. Where an assessment concludes in relation to the individual industrial sectors that no significant impact on sectors or subsectors exposed to a significant risk of carbon leakage is to be expected, the Commission may, in exceptional circumstances, adapt the**



*timetable for the period referred to in Article 13(1) beginning on 1 January 2013 so as to ensure the orderly functioning of the market. The Commission shall make no more than one such adaptation for a maximum number of 900 million allowances.*

*Auctions shall be designed to ensure that:*

- (a) operators, and in particular any SMEs covered by the EU ETS, have full, fair and equitable access;*
- (b) all participants have access to the same information at the same time and that participants do not undermine the operation of the auction;*
- (c) the organisation and participation in auctions is cost-efficient and undue administrative costs are avoided; and*
- (d) small emitters have access to allowances.'*

## **Amendment 58**

### **Proposal for a directive**

#### **Article 1 – point 4 – point d a (new)**

Directive 2003/87/EC

Article 10 – paragraph 4 – subparagraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

*(da) in paragraph 4, the following subparagraph is added:*

*'Every two years Member States shall report to the Commission the closure of electricity generation in their territory capacity due to national measures. The Commission shall calculate the equivalent number of allowances that those closures represent and inform the Member States. Member States may cancel a corresponding volume of allowances out of the total quantity distributed in accordance with paragraph 2.'*

## Amendment 59

### Proposal for a directive

#### Article 1 – point 4 – point d b (new)

Directive 2003/87/EC

Article 10 – paragraph 5

#### *Present text*

'5. The Commission shall monitor the functioning of the **European carbon market**. Each year, it shall submit a report to the European Parliament and to the Council on **the functioning of the carbon market** including the implementation of the auctions, liquidity and the volumes traded. **If necessary**, Member States shall ensure that any relevant information is submitted to the Commission at least two months before the Commission adopts the report.'

#### *Amendment*

***(db) paragraph 5 is replaced by the following:***

'5. The Commission shall monitor the functioning of the **EU ETS**. Each year, it shall submit a report to the European Parliament and to the Council on **its** functioning including the implementation of the auctions, liquidity and the volumes traded. **The report shall also address the interaction of the EU ETS with other Union climate and energy policies, including how those policies impact upon the supply-demand balance of the EU ETS and their compliance with the Union's 2030 and 2050 climate and energy goals. The report shall also take into account the risk of carbon leakage and the impact on investment within the Union.** Member States shall ensure that any relevant information is submitted to the Commission at least two months before the Commission adopts the report.'

## Amendment 60

### Proposal for a directive

#### Article 1 – point 5 – point a

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraphs 1 and 2

*Text proposed by the Commission*

(a) the second **paragraph of paragraph 1** is replaced by the following:

'The Commission **shall be** empowered to adopt a delegated act in accordance with **Article 23**. This act shall also provide for additional allocation from the new entrants reserve for significant production **increases by applying the same thresholds and allocation adjustments as apply in respect of partial cessations of operation.**'

*Amendment*

(a) **in paragraph 1, the first and second subparagraphs are** replaced by the following:

**'1.** The Commission **is** empowered to adopt a delegated act in accordance with **30b to supplement this Directive by setting Union-wide and fully harmonised measures for the allocation of the allowances referred to in paragraphs 4, 5 and 7, including any necessary provisions for a harmonised application of paragraph 19.** This act shall also provide for additional allocation from the new entrants reserve for significant production **changes. It shall, in particular, provide that any decrease or increase of at least 10% in production expressed as a rolling average of verified production data for the two preceding years compared to the production activity reported in accordance with Article 11 is adjusted with a corresponding amount of allowances by placing allowances into, or releasing them from, the reserve referred to in paragraph 7.**

**When preparing the delegated act referred to in the first subparagraph, the Commission shall take into account the need to limit administrative complexity and prevent gaming of the system. For that purpose it may, as appropriate, use flexibility in the application of the thresholds set out in this paragraph where justified to do so due to specific circumstances.'**

**Amendment 61**

**Proposal for a directive  
Article 1 – point 5 – point a (new)**

Article 10a – paragraph 1 – subparagraph 3

*Present text*

'The measures referred to in the first subparagraph shall, to the extent feasible, determine **Community**-wide ex-ante benchmarks so as to ensure that allocation takes place in a manner that provides incentives for reductions in greenhouse gas emissions and energy efficient techniques, by taking account of the most efficient techniques, substitutes, alternative production processes, high efficiency cogeneration, efficient energy recovery of waste gases, use of biomass **and capture and storage of CO<sub>2</sub>**, where such facilities are available, and shall not provide incentives to increase emissions. No free allocation shall be made in respect of any electricity production, except for cases falling within Article 10c and electricity produced from waste gases.'

*Amendment*

***(aa) in paragraph 1, the third subparagraph is replaced by the following:***

'The measures referred to in the first subparagraph shall, to the extent feasible, determine **Union**-wide ex-ante benchmarks so as to ensure that allocation takes place in a manner that provides incentives for reductions in greenhouse gas emissions and energy efficient techniques, by taking account of the most efficient techniques, substitutes, alternative production processes, high efficiency cogeneration, efficient energy recovery of waste gases, use of biomass, **CCS and CCU**, where such facilities are available, and shall not provide incentives to increase emissions. No free allocation shall be made in respect of any electricity production, except for cases falling within Article 10c and electricity produced from waste gases.'

**Amendment 62**

**Proposal for a directive  
Article 1 – point 5 – point b**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 3 – introductory part

*Text proposed by the Commission*

***The benchmark values for free allocation shall be adjusted in order to avoid windfall profits and reflect technological***

*Amendment*

***The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive for the***

*progress in the period between 2007-8 and each later period for which free allocations are determined in accordance with Article 11(1). This adjustment shall reduce the benchmark values set by the act adopted pursuant to Article 10a by 1% of the value that was set based on 2007-8 data in respect of each year between 2008 and the middle of the relevant period of free allocation, unless:*

*purpose of determining the revised benchmark values for free allocation. Those acts shall be in accordance with the delegated acts adopted pursuant to paragraph 1 of this Article and shall comply with the following:*

### **Amendment 63**

**Proposal for a directive**  
**Article 1 – point 5 – point b**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 3 – point -i (new)

*Text proposed by the Commission*

*Amendment*

*(-i) For the period from 2021 to 2025, the benchmark values shall be determined on the basis of information submitted pursuant to Article 11 for the years 2016-2017;*

### **Amendment 64**

**Proposal for a directive**  
**Article 1 – point 5 – point b**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 3 – point -i a (new)

*Text proposed by the Commission*

*Amendment*

*(-ia) On the basis of a comparison of the benchmark values based on this information with the benchmark value*

*contained in Commission Decision 2011/278, the Commission shall determine the annual reduction rate for each benchmark and apply it to the benchmark values applicable in the period 2013-2020 in respect of each year between 2008 and 2023 to determine the benchmark values for the years 2021-2025;*

## **Amendment 65**

**Proposal for a directive**  
**Article 1 – point 5 – point b**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 3 – point i

*Text proposed by the Commission*

*(i) On the basis of information submitted pursuant to Article 11, the Commission shall identify whether the values for each benchmark calculated using the principles in Article 10a differ from the annual reduction referred to above by more than 0.5% of the 2007-8 value higher or lower annually. If so, that benchmark value shall be adjusted either 0.5% or 1.5% in respect of each year between 2008 and the middle of the period for which free allocation is to be made;*

*Amendment*

*(i) Where, on the basis of information submitted pursuant to Article 11 the rate of improvement does not exceed 0.25%, the benchmark value shall therefore be reduced by that percentage in the period 2021-2025, in respect of each year between 2008 and 2023;*

## **Amendment 66**

**Proposal for a directive**  
**Article 1 – point 5 – point b**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 3 – point ii

*Text proposed by the Commission*

*Amendment*

**(ii) By way of derogation regarding the benchmark values for aromatics, hydrogen and syngas, these benchmark values shall be adjusted by the same percentage as the refineries benchmarks in order to preserve a level playing field for producers of these products.**

**(ii) Where, on the basis of information submitted pursuant to Article 11 the rate of improvement exceeds 1,75%, the benchmark value shall therefore be reduced by that percentage in the period 2021-2025, in respect of each year between 2008 and 2023.**

#### **Amendment 67**

**Proposal for a directive  
Article 1 – point 5 – point b**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 4

*Text proposed by the Commission*

*Amendment*

**The Commission shall adopt an implementing act for this purpose in accordance with Article 22a.**

**deleted**

#### **Amendment 68**

**Proposal for a directive  
Article 1 – point 5 – point b a (new)**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) in paragraph 2, the following subparagraph is added:**

**‘For the period between 2026 and 2030, the benchmark values shall be determined in the same manner on the basis of**

*information submitted pursuant to Article 11 for the years 2021-2022 and with the annual reduction rate applying in respect of each year between 2008 and 2028.'*

## **Amendment 69**

### **Proposal for a directive**

#### **Article 1 – point 5 – point b b (new)**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 3 b (new)

#### *Text proposed by the Commission*

**(ii)** By way of derogation regarding the benchmark values for aromatics, hydrogen and syngas, these benchmark values shall be adjusted by the same percentage as the refineries benchmarks in order to preserve a level playing field for producers of these products.

#### *Amendment*

***(bb) in paragraph 2, the following subparagraph is added:***

'By way of derogation regarding the benchmark values for aromatics, hydrogen and syngas, these benchmark values shall be adjusted by the same percentage as the refineries benchmarks in order to preserve a level playing field for producers of these products.'

## **Amendment 165**

### **Proposal for a directive**

#### **Article 1 – point 5 – point b c (new)**

Directive 2003/87/EC

Article 10a – paragraph 3

#### *Present text*

Subject to paragraphs 4 and 8, and notwithstanding Article 10c, no free allocation shall be given to electricity generators, to installations for the capture

#### *Amendment*

***bc) in paragraph 3, the following subparagraph is added:***

Subject to paragraphs 4 and 8, and notwithstanding Article 10c, no free allocation shall be given to electricity generators, to installations for the capture



of CO<sub>2</sub>, to pipelines for transport of CO<sub>2</sub> or to CO<sub>2</sub> storage sites.

of CO<sub>2</sub>, to pipelines for transport of CO<sub>2</sub> or to CO<sub>2</sub> storage sites. ***Electricity generators producing electricity from waste gas are not electricity generators within the meaning of Article 3(u) of this Directive. In benchmark calculations, the full carbon content of waste gases used for electricity production shall be taken into account.***

## Amendment 70

### Proposal for a directive Article 1 – point 5 – point b d (new)

Directive 2003/87/EC

Article 10a – paragraph 4

#### *Present text*

'4. Free allocation shall be given to district heating as well as to high efficiency cogeneration, as defined by Directive 2004/8/EC, for economically justifiable demand, in respect of the production of heating or cooling. ***In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 9.***

#### *Amendment*

***(bd) paragraph 4 is replaced by the following:***

'4. Free allocation shall be given to district heating as well as to high efficiency cogeneration, as defined by Directive 2004/8/EC, for economically justifiable demand, in respect of the production of heating or cooling.'

## Amendment 71

### Proposal for a directive Article 1 – point 5 – point c

Directive 2003/87/EC

Article 10a – paragraph 5

*Text proposed by the Commission*

***In order to respect the auctioning share set out in Article 10, the sum of free allocations in every year where the sum of free allocations does not reach the maximum level that respects the Member State auctioning share, the remaining allowances up to that level shall be used to prevent or limit reduction of free allocations to respect the Member State auctioning share in later years. Where, nonetheless, the maximum level is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner.***

*Amendment*

***5. Where the sum of free allocations in a given year does not reach the maximum level, respecting the Member States' auctioning share set out in Article 10(1), the remaining allowances up to that level shall be used to prevent or limit the reduction of free allocations in subsequent years. Where, however, the maximum level is reached, an amount of allowances equivalent to a reduction of up to five percentage points of the share of allowances to be auctioned by Member States over the entire ten year period beginning on 1 January 2021, pursuant to Article 10(1), shall be distributed free of charge to sectors and sub-sectors pursuant to Article 10b. Where, nonetheless, this reduction is insufficient to meet the demand of sectors or sub-sectors pursuant to Article 10b, free allocations shall be adjusted accordingly by a uniform cross-sectoral correction factor to sectors with an intensity of trade with third countries below 15% or a carbon intensity below 7Kg CO2/Euro GVA.***

**Amendment 72**

**Proposal for a directive  
Article 1 – point 5 – point d**

Directive 2003/87/EC

Article 10a – paragraph 6 – subparagraph 1

*Text proposed by the Commission*

***Member States should adopt financial measures in favour of sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred***

*Amendment*

***6. A centralised arrangement at Union level shall be adopted to compensate sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually***

from greenhouse gas emission costs passed on in electricity prices, ***taking into account any effects on the internal market. Such financial measures to compensate part of these costs shall be in accordance with state aid rules.***

incurred from greenhouse gas emission costs passed on in electricity prices.

***Compensation shall be proportionate to greenhouse gas emission costs actually passed through in electricity prices and shall be applied in accordance with the criteria laid down in the relevant state aid guidelines in order to avoid negative effects on the internal market as well as overcompensation of costs incurred.***

***Where the amount of compensation available is not sufficient to compensate eligible indirect costs, the amount of compensation available for all eligible installations shall be reduced in a uniform manner.***

***The Commission is empowered to adopt a delegated act in accordance with Article 30b to supplement this Directive for the purpose referred to in this paragraph by putting in place arrangements for the creation and operation of the fund.***

## **Amendment 73**

### **Proposal for a directive**

#### **Article 1 – point 5 – point d a (new)**

Directive 2003/87/EC

Article 10a – paragraph 6 – subparagraph 1a (new)

*Text proposed by the Commission*

*Amendment*

***(da) in paragraph 6, a new subparagraph is inserted:***

***'Member States may also adopt national financial measures in favour of sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to***

*significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, taking into account any effects on the internal market. Such financial measures to compensate part of those costs shall be in accordance with state aid rules and Article 10(3) of this Directive. Those national measures, when combined with the support referred to in the first subparagraph, shall not exceed the maximum level of compensation referred to in the relevant state aid guidelines and shall not create new market distortions. The existing ceilings on state aid compensation shall continue to decline throughout the trading period.'*

#### **Amendment 74**

##### **Proposal for a directive**

##### **Article 1 – point 5 – point e – point i**

Directive 2003/87/EC

Article 10a – paragraph 7 – subparagraph 1

##### *Text proposed by the Commission*

*Allowances from the maximum amount referred to Article 10a(5) of this Directive which were not allocated for free up to 2020 shall be set aside for new entrants and significant production increases, together with 250 million allowances placed in the market stability reserve pursuant to Article 1(3) of Decision (EU) 2015/... of the European Parliament and of the Council(\*).*

##### *Amendment*

**7. 400 million allowances** shall be set aside for new entrants and significant production increases.

#### **Amendment 75**

##### **Proposal for a directive**

##### **Article 1 – point 5 – point e – point i**

Directive 2003/87/EC

Article 10a – paragraph 7 – subparagraph 2

*Text proposed by the Commission*

From 2021, allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the reserve.

*Amendment*

From 2021 **onwards, any** allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the reserve.

## **Amendment 76**

### **Proposal for a directive**

#### **Article 1 – point 5 – point f – introductory part**

Directive 2003/87/EC

Article 10a – paragraph 8

*Text proposed by the Commission*

(f) **in** paragraph 8, **the first, second and third subparagraphs of paragraph 8 are** replaced by the following:

*Amendment*

(f) paragraph 8 **is** replaced by the following:

## **Amendment 77**

### **Proposal for a directive**

#### **Article 1 – point 5 – point f – subparagraph 1**

Directive 2003/87/EC

Article 10a – paragraph 8 – subparagraph 1

*Text proposed by the Commission*

**400** million allowances shall be available to **support** innovation in low-carbon

*Amendment*

**8.** **600** million allowances shall be available to **leverage investments in**

technologies and processes in industrial sectors listed in Annex I, and to help stimulate the construction and operation of commercial demonstration projects that aim at the environmentally safe *capture and geological storage (CCS) of CO2* as well as demonstration projects of innovative renewable energy technologies, in the territory of the Union.

innovation in low-carbon technologies and processes in industrial sectors listed in Annex I, *including bio-based materials and products substituting carbon intensive materials*, and to help stimulate the construction and operation of commercial demonstration projects that aim at the environmentally safe *CCS and CCU* as well as demonstration projects of innovative renewable energy technologies *and energy storage*, in the territory of the Union.

## Amendment 78

### Proposal for a directive Article 1 – point 5 – point f

Directive 2003/87/EC

Article 10a – paragraph 8 – subparagraph 2

#### *Text proposed by the Commission*

The allowances shall be made available for innovation in low-carbon industrial technologies and processes and support for demonstration projects for the development of a wide range of *CCS and* innovative renewable energy technologies that are not yet commercially viable *in geographically balanced locations*. In order to promote innovative projects, up to **60%** of the relevant costs of projects may be supported, out of which up to **40%** may not be dependent on verified avoidance of greenhouse gas emissions provided that pre-determined milestones are attained taking into account the technology deployed.

#### *Amendment*

The allowances shall be made available for innovation in low-carbon industrial technologies and processes and support for demonstration projects for the development of a wide range of innovative renewable energy technologies, *CCS and CCU* that are not yet commercially viable. *Projects shall be selected on the basis of their impact on energy systems or industrial processes within a Member State, a group of Member States or the Union*. In order to promote innovative projects, up to **75%** of the relevant costs of projects may be supported, out of which up to **60%** may not be dependent on verified avoidance of greenhouse gas emissions provided that pre-determined milestones are attained taking into account the technology deployed. *Allowances shall be allocated to projects according to their needs to reach pre-determined milestones*.

## Amendment 79

### Proposal for a directive Article 1 – point 5 – point f

Directive 2003/87/EC

Article 10a – paragraph 8 – subparagraph 3

#### *Text proposed by the Commission*

In addition, 50 million unallocated allowances from the **market stability reserve established by Decision (EU) 2015/...** shall supplement any existing resources remaining under this paragraph for projects referred to **above**, with projects in all Member States including small-scale projects, before 2021. Projects shall be selected on the basis of objective and transparent criteria.

#### *Amendment*

In addition, 50 million unallocated allowances from the **MSR** shall supplement any existing resources remaining under this paragraph **as a consequence of funds resulting from NER300 allowance auctions for the period between 2013 and 2020 not having been used**, for projects referred to **in the first and second subparagraphs**, with projects in all Member States including small-scale projects, before 2021 **and from 2018 onwards**. Projects shall be selected on the basis of objective and transparent criteria, **taking into account their relevance in relation to the decarbonisation of the sectors concerned**.

**Projects supported under this subparagraph may also receive further support under the first and second subparagraphs.**

## Amendment 80

### Proposal for a directive Article 1 – point 5 – point f

Directive 2003/87/EC

Article 10a – paragraph 8 – subparagraph 4

*Text proposed by the Commission*

The Commission **shall be** empowered to adopt **a** delegated **act** in accordance with Article 23.

*Amendment*

The Commission **is** empowered to adopt delegated **acts** in accordance with Article **30b to supplement this Directive by setting the criteria to be used for the selection of projects that are eligible to benefit from the allowances referred to in this paragraph, taking due account of the following principles:**

- (i) Projects shall focus on the design and development of breakthrough solutions and implementation of demonstration programmes;**
- (ii) The activities shall run close-to-market in production plants to demonstrate the viability of breakthrough technologies in overcoming technological as well as non-technological barriers;**
- (iii) Projects shall address technological solutions that have the potential to be of widespread application, and may combine different technologies;**
- (iv) Solutions and technologies shall ideally have the potential to be transferred within the sector and possibly to other sectors;**
- (v) Projects where the anticipated emissions reductions are significantly below the relevant benchmark value shall be prioritised. Eligible projects shall either contribute to emissions reductions below the benchmark values referred to in paragraph 2 or shall have future prospects to significantly lower the cost of transitioning towards low-emissions energy production; and**
- (vi) CCU projects shall deliver a net reduction in emissions and a permanent storage of CO<sub>2</sub> across their lifetime.**



## Amendment 82

### Proposal for a directive Article 1 – point 5 – point i a (new)

Directive 2003/87/EC

Article 10a – paragraph 20

#### *Present text*

'20. The Commission shall, as part of the measures adopted under paragraph 1, include measures for defining installations that partially cease to operate or significantly reduce their capacity, and measures for adapting, as appropriate, the level of free allocations given to them accordingly.'

#### *Amendment*

***(ia) paragraph 20 is replaced by the following:***

'20. The Commission shall, as part of the measures adopted under paragraph 1, include measures for defining installations that partially cease to operate or significantly reduce their capacity, and measures for adapting, as appropriate, the level of free allocations given to them accordingly.'

***Those measures shall provide flexibility for industry sectors where capacity is regularly transferred between operating installations in the same company.'***

## Amendment 83

### Proposal for a directive Article 1 – point 6

Directive 2003/87/EC

Article 10b – title

#### *Present text*

Measures to support certain energy-intensive industries in the event of carbon

#### *Amendment*

***Transitional*** measures to support certain energy intensive industries in the event of

**Amendment 85****Proposal for a directive****Article 1 – point 6**

Directive 2003/87/EC

Article 10b – paragraph 1 a (new)

*Text proposed by the Commission**Amendment*

***1a. After the adoption of the revision of the Directive 2012/27/EU of the European Parliament and of the Council\*, the Commission shall reassess the share of emission reductions in the EU ETS and the Decision No 406/2009/EC of the European Parliament and of the Council\*\*. Additional reductions by an increased energy efficiency target shall be used to protect industry at risk of carbon or investment leakage.***

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***\* Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).***

***\*\* Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction***

*commitments up to 2020 (OJ L 140, 5.6.2009, p. 136).*

## **Amendment 144**

### **Proposal for a directive**

#### **Article 1 – point 6**

Directive 2003/87/EC

Article 10b – paragraphs 1 b and 1 c (new)

*Text proposed by the Commission*

*Amendment*

*(1b) Following up to Article 6(2) of the Paris Agreement, the Commission shall assess in its report, to be prepared in accordance with Article 28aa, the development of climate mitigation policies, including market-based approaches, in third countries and regions and the effect of these policies on the competitiveness of European industry.*

*(1c) If this report concludes that a significant risk of carbon leakage remains, the Commission shall, if appropriate, come forward with a legislative proposal introducing a carbon border adjustment, fully compatible with WTO rules, based on a feasibility study to be initiated at the publication of this Directive in the OJ. This mechanism would include in the EU ETS importers of products which are produced by the sectors or sub-sectors determined in accordance with Article 10a.*

## **Amendment 86**

### **Proposal for a directive**

#### **Article 1 – point 6**

Article 10b – paragraph 2

*Text proposed by the Commission*

2. Sectors and sub-sectors where the product from multiplying their intensity of trade with third countries by their emission intensity is above **0.18** may be included in the group referred to in paragraph 1, on the basis of a qualitative assessment using the following criteria:

- (a) the extent to which it is possible for individual installations in the sector or sub-sectors concerned to reduce emission levels or electricity consumption;
- (b) current and projected market characteristics;
- (c) profit margins as a potential indicator of long-run investment or relocation decisions.

*Amendment*

2. Sectors and sub-sectors where the product from multiplying their intensity of trade with third countries by their emission intensity is above **0,12** may be included in the group referred to in paragraph 1, on the basis of a qualitative assessment using the following criteria:

- (a) the extent to which it is possible for individual installations in the sector or sub-sectors concerned to reduce emission levels or electricity consumption ***taking into account associated increases in costs of production;***
- (b) current and projected market characteristics;
- (c) profit margins as a potential indicator of long-run investment or relocation decisions;
- (ca) commodities which are traded on worldwide markets for a common reference price.***

**Amendment 87**

**Proposal for a directive  
Article 1 – point 6**

Directive 2003/87/EC

Article 10b – paragraph 3

*Text proposed by the Commission*

3. ***Other sectors and sub-sectors are*** considered to be able to pass on more of the cost of allowances in product prices,

*Amendment*

3. ***The district heating sector is*** considered to be able to pass on more of the cost of allowances in product prices,

and shall be allocated allowances free of charge for the period up to 2030 at 30% of the quantity determined in accordance with the measures adopted pursuant to Article 10a.

and shall be allocated allowances free of charge for the period up to 2030 at 30% of the quantity determined in accordance with the measures adopted pursuant to Article 10a. ***Other sectors and sub-sectors shall not be allocated any allowances free of charge.***

## **Amendment 88**

### **Proposal for a directive**

#### **Article 1 – point 6**

Directive 2003/87/EC

Article 10b – paragraph 4

#### *Text proposed by the Commission*

4. By 31 December 2019, the Commission shall adopt *a* delegated ***act for the preceding paragraphs for*** activities at a 4-digit level (NACE-4 code) ***as concerns paragraph 1, in accordance with Article 23,*** based on data for the ***three*** most recent calendar years available.

#### *Amendment*

4. By 31 December 2019, the Commission shall adopt delegated ***acts in accordance with Article 30b to supplement this Directive in relation to paragraph 1 concerning the*** activities at a 4-digit level (NACE-4 code) ***or, where justified on the basis of objective criteria developed by the Commission, at the relevant level of disaggregation based on public and sector-specific data to comprise those activities covered by the EU ETS. The assessment of trade intensity shall be*** based on data for the ***five*** most recent calendar years available.

## **Amendment 89**

### **Proposal for a directive**

#### **Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 1

*Text proposed by the Commission*

1. By derogation from Article 10a(1) to (5), Member States which had in 2013 a GDP per capita in € at market prices below 60% of the Union average may give **a** transitional free allocation to installations for electricity **production** for the modernisation of the energy sector.

*Amendment*

1. By **way of** derogation from Article 10a(1) to (5), Member States which had in 2013 a GDP per capita in **EUR** at market prices below 60% of the Union average may give transitional free allocation to installations for electricity **generation** for the modernisation, **diversification and sustainable transformation** of the energy sector. ***This derogation shall end on 31 December 2030.***

**Amendment 90**

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Member States not eligible pursuant to paragraph 1 but which had in 2014 a GDP per capita in EUR at market prices below 60% of the Union average may also make use of the derogation referred to in that paragraph up to the total quantity referred to in paragraph 4, provided that the corresponding number of allowances is transferred to the Modernisation Fund and the revenues are used to support investments in accordance with Article 10d.***

**Amendment 91**

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***1b. Member States which are eligible under this Article to grant free allocation to installations for energy generation, may choose to transfer the corresponding number of allowances or part of them to the Modernisation Fund and allocate them pursuant to the provisions of Article 10d. In such a case, they shall inform the Commission before the transfer.***

## **Amendment 92**

### **Proposal for a directive Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 2 – subparagraph 1 – point b

*Text proposed by the Commission*

*Amendment*

(b) ensure that only projects which contribute to the diversification of their energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure, clean technologies **and** modernisation of the energy production, transmission and distribution sectors are eligible to bid;

(b) ensure that only projects which contribute to the diversification of their energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure, clean technologies (***such as renewable technologies***) **or** modernisation of the energy production, ***district heating networks, energy efficiency, energy storage***, transmission and distribution sectors are eligible to bid;

## Amendment 93

### Proposal for a directive

#### Article 1 – point 6

Directive 2003/87/EC

Article 10c – paragraph 2 – subparagraph 1 – point c

#### *Text proposed by the Commission*

(c) define clear, objective, transparent and non-discriminatory selection criteria for the ranking of projects, so as to ensure that projects are selected which:

#### *Amendment*

(c) define clear, objective, transparent and non-discriminatory selection criteria ***in line with the Union 2050 climate and energy policy objectives*** for the ranking of projects, so as to ensure that projects are selected which:

## Amendment 94

### Proposal for a directive

#### Article 1 – point 6

Directive 2003/87/EC

Article 10c – paragraph 2 – subparagraph 1 – point c – point i

#### *Text proposed by the Commission*

(i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of emission reduction and realise a pre-determined significant level of CO<sub>2</sub> reductions;

#### *Amendment*

(i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of emission reduction and realise a pre-determined significant level of CO<sub>2</sub> reductions ***proportionate to the size of the projects. Where projects relate to electricity production, total greenhouse gas emissions per kilowatt hour of electricity produced in the installation shall not exceed 450g of CO<sub>2</sub> equivalent after completion of the project. By 1 January 2021, the Commission shall adopt a delegated act in accordance with Article 30b in order to amend this Directive by defining for projects relating***



*to heat production maximum total  
greenhouse gas emissions per kilowatt  
hour of heat produced in the installation  
that shall not be exceeded.*

## **Amendment 95**

### **Proposal for a directive Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 2 – subparagraph 1– point c – point ii

#### *Text proposed by the Commission*

(ii) are additional, clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand;

#### *Amendment*

(ii) are additional, ***although they may be used to meet the relevant targets set under the 2030 Climate and Energy Framework,*** clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand;

## **Amendment 96**

### **Proposal for a directive Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 2 – subparagraph 1– point c – point iii a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(iiia) do not contribute to new coal-fired energy generation nor increase coal-dependency.***

## Amendment 97

### Proposal for a directive

#### Article 1 – point 6

Directive 2003/87/EC

Article 10c – paragraph 2 – subparagraph 2

#### *Text proposed by the Commission*

By 30 June 2019, any Member State intending to make use of optional free allocation shall publish a detailed national framework setting out the competitive bidding process and selection criteria for public comment.

#### *Amendment*

By 30 June 2019, any Member State intending to make use of optional ***transitional*** free allocation ***for the modernisation of the energy sector*** shall publish a detailed national framework setting out the competitive bidding process and selection criteria for public comment.

## Amendment 98

### Proposal for a directive

#### Article 1 – point 6

Directive 2003/87/EC

Article 10c – paragraph 2 – subparagraph 3

#### *Text proposed by the Commission*

Where investments with a value of less than €10 million are supported with free allocation, the Member State shall select projects based on objective and transparent criteria. The results of this selection process shall be published for public ***comment***. On this basis, the Member State concerned shall establish and submit a list of investments to the Commission by 30 June 2019.

#### *Amendment*

Where investments with a value of less than ***EUR*** 10 million are supported with free allocation, the Member State shall select projects based on objective and transparent criteria ***consistent with reaching the Union's long-term climate and energy objectives. Those criteria shall be subject to public consultation, ensuring full transparency and accessibility of relevant documents, and fully reflect comments raised by stakeholders.*** The results of this selection process shall be published for public ***consultation***. On this basis, the Member State concerned shall

establish and submit a list of investments to the Commission by 30 June 2019.

## Amendment 99

### Proposal for a directive

#### Article 1 – point 6

Directive 2003/87/EC

Article 10c – paragraph 3

#### *Text proposed by the Commission*

3. The value of the intended investments shall at least equal the market value of the free allocation, while taking into account the need to limit directly linked price increases. The market value shall be the average of the price of allowances on the common auction platform in the preceding calendar year.

#### *Amendment*

3. The value of the intended investments shall at least equal the market value of the free allocation, while taking into account the need to limit directly linked price increases. The market value shall be the average of the price of allowances on the common auction platform in the preceding calendar year. ***Up to 75% of the relevant costs of an investment may be supported.***

## Amendment 100

### Proposal for a directive

#### Article 1 – point 6

Directive 2003/87/EC

Article 10c – paragraph 6

#### *Text proposed by the Commission*

6. Member States shall require benefiting ***electricity*** generators and network operators to report ***by 28 February*** of each year on the implementation of their selected investments. Member States shall report on

#### *Amendment*

6. Member States shall require benefiting ***energy*** generators and network operators to report ***annually by 31 March*** of each year on the implementation of their selected investments, ***including the balance of free allocation and investment***

this to the Commission, and the Commission shall make such reports public.

*expenditure incurred, the types of investments supported and the way in which they achieved the goals set out in point (b) of the first subparagraph of paragraph 2. Member States shall report on this to the Commission, and the Commission shall make such reports available to the public. Member States and the Commission shall monitor and analyse potential arbitrage with regard to the threshold of EUR 10 million for small projects and shall prevent unjustified dividing up of an investment over smaller projects by excluding more than one investment in the same beneficiary installation.*

## **Amendment 101**

### **Proposal for a directive**

#### **Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. In case of a reasonable suspicion of irregularities or a failure by a Member State to report in accordance with paragraphs 2 to 6, the Commission may undertake an independent investigation, where necessary assisted by a contracted third party. The Commission shall also investigate other possible infringements, such as failure to implement the Third Energy Package. The Member State concerned shall provide all investment information and access necessary for the investigation, including access to installations and building sites. The Commission shall publish a report on that investigation.***

## Amendment 102

### Proposal for a directive

#### Article 1 – point 6

Directive 2003/87/EC

Article 10c – paragraph 6 b (new)

*Text proposed by the Commission*

*Amendment*

**6b. In the case of infringement of Union climate and energy law, including the Third Energy Package, or the criteria set out in this Article, the Commission may require the Member State to withhold free allocation.**

## Amendment 149

### Proposal for a directive

#### Article 1 – point 7

Directive 2003/87/EC

Article 10d – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

1. A fund to support investments in modernising energy systems and improving energy efficiency in Member States with a GDP per capita below 60% of the Union average in 2013 shall be established for the period **2021-30** and financed as set out in Article 10.

1. A fund to support **and leverage** investments in modernising energy systems, **including district heating**, and improving energy efficiency in Member States with a GDP per capita below 60% of the Union average in 2013, **or in 2014, or in 2015**, shall be established for the period **2021-2030** and financed as set out in Article 10.

## Amendment 104

### Proposal for a directive

#### Article 1 – point 7

Directive 2003/87/EC

Article 10d – paragraph 1 – subparagraph 2

#### *Text proposed by the Commission*

The investments supported shall be consistent with the aims of this Directive and the European Fund for Strategic Investments.

#### *Amendment*

The investments supported shall ***comply with the principles of transparency, non-discrimination, equal treatment, sound financial management and shall offer the best value for money. They shall*** be consistent with the aims of this Directive, ***the Union’s long term climate and energy goals*** and the European Fund for Strategic Investments, ***and shall:***

***(i) Contribute to energy savings, renewable energy systems, energy storage and electricity interconnection, transmission and distribution sectors; where projects relate to electricity production, total greenhouse gas emissions per kilowatt hour of electricity produced in the installation shall not exceed 450g of CO2 equivalent after completion of the project. The Commission shall adopt a delegated act in accordance with Article 30b by 1 January 2021 in order to amend this Directive by defining, for projects relating to heat production, maximum total greenhouse gas emissions per kilowatt hour of heat produced in the installation that shall not be exceeded;***

***(ii) On the basis of a cost-benefit analysis, ensure a net-positive gain in terms of emissions reductions and realise a pre-determined significant level of CO2 reductions;***

***(iii) Be additional although they may be used to meet the relevant targets set under the 2030 Climate and Energy Framework, clearly respond to replacement and***

*modernisation needs and shall not supply a market-driven increase in energy demand;*

*(iv) Not contribute to new coal-fired energy generation nor increase coal dependency.*

## **Amendment 105**

### **Proposal for a directive**

#### **Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*The Commission shall keep under review the requirements set out in this paragraph taking into account the Climate Strategy of the EIB. If, on the basis of technological progress, one or more of the requirements set out in this paragraph become irrelevant, the Commission shall adopt a delegated act in accordance with Article 30b by 2024 in order to amend this Directive by outlining new or updated requirements.*

## **Amendment 106**

### **Proposal for a directive**

#### **Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 2

*Text proposed by the Commission*

2. The fund shall also finance small-scale investment projects in the modernisation of energy systems and energy efficiency. To this end, the investment board shall develop guidelines and **investment** selection criteria specific to such projects.

*Amendment*

2. The fund shall also finance small-scale investment projects in the modernisation of energy systems and energy efficiency. To this end, **its** investment board shall develop **investment** guidelines and selection criteria specific to such projects **in line with the objectives of this Directive and with the criteria set out in paragraph 1. Those guidelines and selection criteria shall be made available to the public.**

***For the purpose of this paragraph a small-scale investment project means a project funded through loans provided by a national promotional bank or through grants contributing to the implementation of a national programme serving specific objectives that are in line with those of the Modernisation Fund, provided that not more than 10% of the Member States' share set out in Annex IIb is used.***

**Amendment 107**

**Proposal for a directive**

**Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. Any beneficiary Member State which has decided to grant transitional free allocation pursuant to Article 10c may transfer those allowances to its share of the Modernisation Fund set out in Annex IIb and allocate them pursuant to the provisions of Article 10d.***



## Amendment 108

### Proposal for a directive

#### Article 1 – point 7

Directive 2003/87/EC

Article 10d – paragraph 4 – subparagraph 1

#### *Text proposed by the Commission*

4. ***The fund shall be governed by an investment board and a management committee, which shall be composed of representatives from the beneficiary Member States, the Commission, the EIB and three representatives elected by the other Member States for a period of 5 years. The investment board shall be responsible to determine an Union-level investment policy, appropriate financing instruments and investment selection criteria.***

The management committee shall be responsible for the day-to-day management

#### *Amendment*

4. ***The beneficiary Member States shall be responsible for the governance of the fund, and shall jointly establish an investment board composed of one representative per beneficiary Member State, the Commission, the EIB, and three observers from interested parties such as industrial federations, trade unions, or NGOs. The investment board shall be responsible for determining a Union-level investment policy, which shall be in line with the requirements set out in this Article and be consistent with Union policies.***

***An advisory board, independent from the investment board, shall be established. The advisory board shall be composed of three representatives from the beneficiary Member States, three representatives from non-beneficiary Member States, a representative of the Commission, a representative of the EIB, and a representative from the European Bank for Reconstruction and Development (EBRD), selected for a five year period. The representatives of the advisory board shall have a high level of relevant market experience in project structuring and project financing. The advisory board shall provide advice and recommendations to the investment board on project eligibility for selection, investment and financing decisions, and any further project development assistance as required.***

***A management committee shall be established. The management committee***

of the fund.

shall be responsible for the day-to-day management of the fund.

## Amendment 109

### Proposal for a directive

#### Article 1 – point 7

Directive 2003/87/EC

Article 10d – paragraph 4 – subparagraph 2

#### *Text proposed by the Commission*

The investment board shall *elect a representative from the Commission as chairman*. The investment board shall strive to take decisions by consensus. *If the investment board is not able to decide by consensus within a deadline set by the chairman, the investment board shall take a decision* by simple majority.

#### *Amendment*

The *chairman of the* investment board shall *be elected from among its members for a one-year term*. The investment board shall strive to take decisions by consensus. *The advisory board shall adopt its opinion* by simple majority.

## Amendment 110

### Proposal for a directive

#### Article 1 – point 7

Directive 2003/87/EC

Article 10d – paragraph 4 – subparagraph 3

#### *Text proposed by the Commission*

The *management committee* shall *be composed of representatives appointed by* the investment board. *Decisions of the management committee shall be taken by simple majority*.

#### *Amendment*

The *investment board, advisory board and management committee* shall *operate in an open and transparent manner. The minutes of both board meetings shall be published. The composition of the investment board and advisory board shall be published and CVs and declarations of interests of the members shall be made*

*available to the public and regularly updated. The investment board and the advisory board shall, on an ongoing basis, check for the absence of any conflict of interest. The advisory board shall submit every six months to the European Parliament, the Council and the Commission a list of advice provided to projects.*

## Amendment 111

### Proposal for a directive Article 1 – point 7

Directive 2003/87/EC

Article 10d – paragraph 4 – subparagraph 4

#### *Text proposed by the Commission*

If the EIB recommends not **financing** an investment and provides reasons **for this recommendation**, a **decision** shall only be adopted if a majority of two-thirds of all members vote in favour. The Member State in which the investment will take place and the EIB shall not be entitled to cast a vote in this case. **For small projects funded through loans provided by a national promotional bank or through grants contributing to the implementation of a national programme serving specific objectives in line with the objectives of the Modernisation Fund, provided that not more than 10% of the Member States' share set out in Annex IIb is used under the programme, the two preceding sentences shall not apply.**

#### *Amendment*

If the EIB recommends **to the advisory board not to finance** an investment and provides reasons **why it is not in line with the investment policy adopted by the investment board and the selection criteria set out in paragraph 1**, a **positive opinion** shall only be adopted if a majority of two-thirds of all members vote in favour. The Member State in which the investment will take place and the EIB shall not be entitled to cast a vote in this case.

## Amendment 112

### Proposal for a directive Article 1 – point 7

Article 10d – paragraph 5 – introductory part

*Text proposed by the Commission*

5. The beneficiary Member States shall report annually to the **management committee** on investments financed by the fund. The report shall be made public and include:

*Amendment*

5. The beneficiary Member States shall report annually to the **investment board and advisory board** on investments financed by the fund. The report shall be made **available to the** public and include:

**Amendment 113**

**Proposal for a directive  
Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 6

*Text proposed by the Commission*

6. Each year, the **management committee** shall report to the Commission on experience with the evaluation and selection of investments. The Commission shall review the basis on which projects are selected by 31 December 2024 and, where appropriate, make proposals to the **management committee**.

*Amendment*

6. Each year, the **advisory board** shall report to the Commission on experience with the evaluation and selection of investments. The Commission shall review the basis on which projects are selected by 31 December 2024 and, where appropriate, make proposals to the **investment board and the advisory board**.

**Amendment 114**

**Proposal for a directive  
Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 7

*Text proposed by the Commission*

7. The Commission ***shall be*** empowered to adopt ***a*** delegated ***act*** in accordance with Article ***23 to implement this Article.***

*Amendment*

7. The Commission ***is*** empowered to adopt delegated ***acts*** in accordance with Article ***30b to supplement this Directive by laying down detailed arrangements for the effective functioning of the Modernisation Fund.***

**Amendment 115**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 8 a (new)**

Directive 2003/87/EC

Article 11 – paragraph 1 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(8a) In Article 11(1) the following subparagraph is added:***

***'From 2021 onwards, Member States shall also ensure that during each calendar year every operator reports production activity for adjustments to allocation in accordance with Article 10a paragraph 7.'***

**Amendment 116**

**Proposal for a directive**

**Article 1 – point 8 b (new)**

Directive 2003/87/EC

Article 11 – paragraph 3 a (new)

***(8b) In Article 11, the following paragraph is added:***

***'3a. In case of a reasonable suspicion of irregularities or a failure by a Member State to provide the list and the information set out in paragraphs 1 to 3, the Commission may start an independent investigation, where necessary assisted by a contracted third party. The Member State concerned shall provide all information and access necessary for the investigation, including access to installations and production data. The Commission shall respect the same confidentiality on commercially sensitive information as the Member State concerned and shall publish a report on that investigation.'***

**Amendment 117**

**Proposal for a directive  
Article 1 – point 10 a (new)**

Directive 2003/87/EC

Article 12 – paragraph 3a

*Present text*

'3a. An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide<sup>1</sup>.'

*Amendment*

***(10a) In Article 12, paragraph 3a is replaced by the following:***

***'3a. An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide<sup>1</sup>, nor in respect of emissions verified as captured and/or re-used in an application ensuring a***

*permanent bound of the CO<sub>2</sub>, for the purpose of carbon capture and re-use.'*

## Amendment 118

### Proposal for a directive

#### Article 1 – point 12

Directive 2003/87/EC

Article 14 – paragraph 1

#### *Text proposed by the Commission*

(12) In Article **14(1)**, the **second subparagraph** is replaced by the following:

'The Commission **shall be** empowered to adopt **a** delegated **act** in accordance with Article **23**.';

#### *Amendment*

**(12) In Article 14, paragraph 1 is replaced by the following:**

**'1. The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive by laying down detailed arrangements for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I, the monitoring and reporting of tonne-kilometre data for the purpose of an application under Articles 3e or 3f, which shall be based on the principles for monitoring and reporting set out in Annex IV and the specification of the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.'**

**'By 31 December 2018, the Commission shall adjust existing rules on monitoring and reporting of emissions as defined in Commission Regulation (EU) 601/2012\* in order to remove regulatory barriers to investment in more recent low carbon technologies such as carbon capture and usage (CCU). Those new rules shall be effective for all CCU technologies as of 1 January 2019.**

**That regulation shall also determine simplified monitoring, reporting and**

*verification procedures for small emitters.*

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\* *Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council. (OJ L 181, 12.7.2012, p. 30).'*

## **Amendment 119**

### **Proposal for a directive Article 1 – point 13**

Directive 2003/87/EC

Article 15 – paragraphs 4 and 5

#### *Text proposed by the Commission*

(13) In Article 15, the fifth *subparagraph is* replaced by the following:

'The Commission *shall be* empowered to adopt a delegated act in accordance with Article 23.';

#### *Amendment*

(13) In Article 15, the *fourth and fifth paragraphs are* replaced by the following:

'The Commission *is* empowered to adopt delegated acts in accordance with Article 30b to supplement this directive by laying down detailed arrangements for the verification of emission reports based on the principles set out in Annex V and for the accreditation and supervision of verifiers. It shall specify conditions for the accreditation and withdrawal of accreditation, for mutual recognition and peer evaluation of accreditation bodies, as appropriate.'

## **Amendment 120**

### **Proposal for a directive Article 1 – point 13 a (new)**

Directive 2003/87/EC

Article 16 – paragraph 7



*Present text*

7. When requests such as those referred to in paragraph 5 are addressed to the Commission, the Commission shall inform the other Member States through their representatives on the Committee referred to in Article **23(1)** in accordance with the Committee's Rules of Procedure.

*Amendment*

**(13a) In Article 16, paragraph 7 is replaced by the following:**

7. When requests such as those referred to in paragraph 5 are addressed to the Commission, the Commission shall inform the other Member States through their representatives on the Committee referred to in Article **30c(1)** in accordance with the Committee's Rules of Procedure.

**Amendment 121**

**Proposal for a directive  
Article 1 – point 14**

Directive 2003/87/EC

Article 16 – paragraph 12

*Text proposed by the Commission*

12. Where appropriate, detailed rules shall be established in respect of the procedures referred to in this Article. Those implementing acts shall be adopted in accordance with the procedure referred to in Article **22a**.

*Amendment*

12. Where appropriate, detailed rules shall be established in respect of the procedures referred to in this Article. Those implementing acts shall be adopted in accordance with the **examination** procedure referred to in Article **30c(2)**.

**Amendment 122**

**Proposal for a directive  
Article 1 – point 15**

Directive 2003/87/EC

Article 19 – paragraph 3

*Text proposed by the Commission*

(15) In Article **19(3)**, **the third sentence** is replaced by the following:

**'It shall also include provisions to put into effect rules on the mutual recognition of allowances in agreements to link emission trading systems. The Commission shall be empowered to adopt a delegated act in accordance with Article 23.'**

*Amendment*

(15) In Article **19, paragraph 3** is replaced by the following:

**'3 The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive by laying down detailed arrangements for the establishment of a standardised and secure system of registries in the form of standardised electronic databases containing common data elements to track the issue, holding, transfer and cancellation of allowances, to provide for public access and confidentiality, as appropriate, and to ensure that there are no transfers which are incompatible with the obligations resulting from the Kyoto Protocol. Those delegated acts shall also include provisions concerning the use and identification of CERs and ERUs in the EU ETS and the monitoring of the level of such use. Those acts shall also include provisions to put into effect rules on the mutual recognition of allowances in agreements to link emission trading systems.'**

**Amendment 123**

**Proposal for a directive  
Article 1 – point 15 a (new)**

Directive 2003/87/EC

Article 21 – paragraph 1

*Present text*

'1. Each year the Member States shall submit to the Commission a report on the

*Amendment*

**(15a) In Article 21, paragraph 1 is replaced by the following:**

'1. Each year the Member States shall submit to the Commission a report on the

application of this Directive. That report shall pay particular attention to the arrangements for the allocation of allowances, the operation of registries, the application of the implementing measures on monitoring and reporting, verification and accreditation and issues relating to compliance with this Directive and on the fiscal treatment of allowances, if any. The first report shall be sent to the Commission by 30 June 2005. The report shall be drawn up on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Directive 91/692/EEC. The questionnaire or outline shall be sent to Member States at least six months before the deadline for the submission of the first report.

application of this Directive. That report shall pay particular attention to the arrangements for the allocation of allowances, ***financial measures pursuant to Article 10a(6)***, the operation of registries, the application of the implementing measures on monitoring and reporting, verification and accreditation and issues relating to compliance with this Directive and on the fiscal treatment of allowances, if any. The first report shall be sent to the Commission by 30 June 2005. The report shall be drawn up on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Directive 91/692/EEC. The questionnaire or outline shall be sent to Member States at least six months before the deadline for the submission of the first report.'

## **Amendment 124**

### **Proposal for a directive Article 1 – point 15 b (new)**

Directive 2003/87/EC

Article 21 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(15b) In Article 21, the following paragraph is inserted:***

***'2a. The report shall, using data provided through the cooperation referred to in Article 18b, include a list of operators subject to the requirements of this Directive who have not opened a registry account.'***

## Amendment 125

### Proposal for a directive Article 1 – point 15 c (new)

Directive 2003/87/EC

Article 21 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(15c) In Article 21 the following paragraph is added:***

***'3a. In case of a reasonable suspicion of irregularities or a failure by a Member State to report in accordance with paragraph 1, the Commission may undertake an independent investigation, where necessary assisted by a contracted third party. The Member State shall provide all information and access necessary for the investigation, including access to installations. The Commission shall publish a report on the investigation.'***

## Amendment 126

### Proposal for a directive Article 1 – point 16

Directive 2003/87/EC

Article 22 – paragraph 2

*Text proposed by the Commission*

*Amendment*

The Commission ***shall be*** empowered to adopt ***a*** delegated ***act*** in accordance with Article ***23***.

The Commission ***is*** empowered to adopt delegated ***acts*** in accordance with Article ***30b*** to amend this Directive by laying down non-essential elements of the Annexes to this Directive, with the exception of Annexes I, IIa and IIb.

## **Amendment 127**

### **Proposal for a directive**

#### **Article 1 – point 17**

Directive 2003/87/EC

Article 22a – title

*Text proposed by the Commission*

(17) The following *Article 22a* is inserted:

‘Article 22a  
Committee procedure’

*Amendment*

(17) The following *Article* is inserted:

‘Article 30c  
Committee procedure’

## **Amendment 128**

### **Proposal for a directive**

#### **Article 1 – point 18**

Directive 2003/87/EC

Article 23 – title

*Text proposed by the Commission*

‘Article 23  
Exercise of the delegation’

*Amendment*

‘Article 30b  
Exercise of the delegation’

## **Amendment 129**

### **Proposal for a directive**

#### **Article 1 – point 19 – point a**

Directive 2003/87/EC

Article 24 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

From 2008, Member States may apply emission allowance trading in accordance with this Directive to activities and to greenhouse gases which are not listed in Annex I, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the **Community scheme** and the reliability of the planned monitoring and reporting system, provided that inclusion of such activities and greenhouse gases is approved by the Commission.

*Amendment*

From 2008, Member States may apply emission allowance trading in accordance with this Directive to activities and to greenhouse gases which are not listed in Annex I, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the **EU ETS** and the reliability of the planned monitoring and reporting system, provided that inclusion of such activities and **such** greenhouse gases is approved by the Commission. ***Any such unilateral inclusion shall be proposed and approved no later than 18 months before the start of a new trading period in the EU ETS.***

**Amendment 130**

**Proposal for a directive**

**Article 1 – point 19 – point a**

Directive 2003/87/EC

Article 24 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

***In accordance with delegated acts which the Commission shall be*** empowered to adopt in accordance with Article 23, if ***the*** inclusion refers to activities and greenhouse gases which are not listed in Annex I

*Amendment*

***The Commission is*** empowered to adopt ***delegated acts*** in accordance with Article 30b ***to supplement this Directive by laying down detailed arrangements for approval of the inclusion of the activities and greenhouse gases referred to in the first subparagraph in the emission allowance trading scheme*** if ***that*** inclusion refers to activities and greenhouse gases which are not listed in Annex I.

## Amendment 131

### Proposal for a directive Article 1 – point 19 – point b

Directive 2003/87/EC

Article 24 – paragraph 3

#### *Text proposed by the Commission*

(b) ***the second subparagraph of paragraph 3*** is replaced by the following:

'The Commission ***shall be*** empowered to adopt delegated acts ***for such a regulation*** for the monitoring and reporting ***of emissions and activity data in accordance with Article 23.***';

#### *Amendment*

(b) paragraph 3 is replaced by the following:

'3. The Commission ***is*** empowered to adopt delegated acts ***in accordance with Article 30b to supplement this Directive by laying down detailed arrangements*** for the monitoring ***of***, and reporting ***on, related to activities, installations and greenhouse gases which are not listed as a combination in Annex I, if that monitoring and reporting can be carried out with sufficient accuracy.***';

## Amendment 132

### Proposal for a directive Article 1 – point 20 – point a

Directive 2003/87/EC

Article 24a – paragraph 1 – subparagraphs 1 and 2

#### *Text proposed by the Commission*

(a) the second subparagraph ***of paragraph 1*** is replaced by the following:

'***Such measures shall be consistent with acts adopted pursuant to Article 11b(7).*** The Commission ***shall be*** empowered to adopt a delegated act in accordance with Article 23.';

#### *Amendment*

(a) ***in paragraph 1***, the ***first and second subparagraphs*** are replaced by the following:

'1. The Commission ***is*** empowered to adopt delegated ***acts*** in accordance with Article 30b ***to supplement this Directive by laying down, in addition to the inclusions provided for in Article 24, detailed***

*arrangements for issuing of allowances or credits in respect of projects administered by Member States that reduce greenhouse gas emissions not covered by the EU ETS.'*

## Amendment 133

### Proposal for a directive Article 1 – point 22

Directive 2003/87/EC

Article 25a – paragraph 1

#### *Text proposed by the Commission*

1. Where a third country adopts measures for reducing the climate change impact of flights departing from that country which land in the **Community**, the Commission, after consulting with that third country, and with Member States within the Committee referred to in Article 23(1), shall consider options available in order to provide for optimal interaction between the **Community scheme** and that country's measures.

Where necessary, the Commission may adopt amendments to provide for flights arriving from the third country concerned to be excluded from the aviation activities listed in Annex I or to provide for any other amendments to the aviation activities listed in Annex I which are required by **an agreement pursuant to the fourth subparagraph. The Commission shall be empowered to adopt such amendments in accordance with Article 23.**

#### *Amendment*

1. Where a third country adopts measures for reducing the climate change impact of flights departing from that country which land in the **Union**, the Commission, after consulting with that third country, and with Member States within the Committee referred to in Article **30c**(1), shall consider options available in order to provide for optimal interaction between the **EU ETS** and that **third** country's measures.

Where necessary, the Commission may **submit a legislative proposal to the European Parliament and Council** to provide for flights arriving from the third country concerned to be excluded from the aviation activities listed in Annex I or to provide for any other amendments to the aviation activities listed in Annex I which are required by **such** agreement.

## Amendment 134

### Proposal for a directive



## Article 1 – point 22 a (new)

Directive 2003/87/EC

### Article 27 – paragraph 1

#### *Present text*

'1. Following consultation with the operator, Member States may exclude from the *Community scheme* installations which have reported to the competent authority emissions of less than 25 000 tonnes of carbon dioxide equivalent **and, where they carry out combustion activities, have a rated thermal input below 35 MW** excluding emissions from biomass, in each of the three years preceding the notification under point (a), and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

(a) it notifies the Commission of each such installation, specifying the equivalent measures applying to that installation that will achieve an equivalent contribution to emission reductions that are in place, before the list of installations pursuant to Article 11(1) has to be submitted and at the latest when this list is submitted to the Commission;

(b) it confirms that monitoring arrangements are in place to assess whether any installation emits 25 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year. Member States *may* allow simplified monitoring, reporting and verification measures for installations with average annual verified emissions between 2008 and 2010 which are below 5 000 tonnes a year, in accordance with Article

#### *Amendment*

***(22a) In Article 27, paragraph 1 is replaced by the following:***

'1. Following consultation with the operator **and upon the operator's agreement**, Member States may exclude from the *EU ETS* installations **operated by an SME** which have reported to the competent authority emissions of less than 50 000 tonnes of carbon dioxide equivalent, excluding emissions from biomass, in each of the three years preceding the notification under point (a), and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

(a) it notifies the Commission of each such installation, specifying the equivalent measures applying to that installation that will achieve an equivalent contribution to emission reductions that are in place **and specifying how those measures would not result in higher compliance costs for such installations**, before the list of installations pursuant to Article 11(1) has to be submitted and at the latest when this list is submitted to the Commission;

(b) it confirms that monitoring arrangements are in place to assess whether any installation emits 50 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year. Member States, **following an operator's request, shall** allow simplified monitoring, reporting and verification measures for installations with average annual verified emissions between 2008 and 2010 which are below 5 000

14;

(c) it confirms that if any installation emits **25 000** tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year or the measures applying to that installation that will achieve an equivalent contribution to emission reductions are no longer in place, the installation will be reintroduced into the ***Community scheme***;

(d) it ***publishes*** the information referred to in points (a), (b) and (c) ***for public comment***.

Hospitals may also be excluded if they undertake equivalent measures. '

tonnes a year, in accordance with Article 14;

(c) it confirms that if any installation emits **50 000** tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year or the measures applying to that installation that will achieve an equivalent contribution to emission reductions are no longer in place, the installation will be reintroduced into the ***EU ETS***;

(d) it ***makes*** the information referred to in points (a), (b) and (c) ***available to the public***.

Hospitals may also be excluded if they undertake equivalent measures.'

## **Amendment 135**

### **Proposal for a directive Article 1 – point 22 b (new)**

Directive 2003/87/EC

Article 27 a (new)

*Text proposed by the Commission*

*Amendment*

***(22b) The following Article is inserted:***

***'Article 27a***

***Exclusion of small installations not subject to equivalent measures***

***1. Following consultation with the operator, Member States may exclude from the EU ETS installations which have reported to the competent authority emissions of less than 5 000 tonnes of carbon dioxide equivalent, excluding emissions from biomass, in each of the three years preceding the notification under point (a), if the Member State concerned complies with the following***

*conditions:*

*(a) it notifies the Commission of each such installation before the list of installations pursuant to Article 11(1) is to be submitted or at the latest when that list is submitted to the Commission;*

*(b) it confirms that monitoring arrangements are in place to assess whether any installation emits 5 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year;*

*(c) it confirms that if any installation emits 5 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year the installation will be reintroduced into the EU ETS, unless Article 27 is applicable;*

*(d) it makes the information referred to in points (a), (b) and (c) available to the public.*

*2. When an installation is reintroduced into the EU ETS pursuant to paragraph 1(c), any allowances issued pursuant to Article 10a shall be granted starting with the year of the reintroduction. Allowances issued to such installations shall be deducted from the quantity to be auctioned pursuant to Article 10(2) by the Member State in which the installation is situated.'*

## **Amendment 136**

### **Proposal for a directive Article 1 – point 22 c (new)**

Directive 2003/87/EC

Article 29

*Present text*

‘Report to ensure the better functioning of the carbon market

If, on the basis of regular reports referred to in Article 10(5), the Commission has evidence that the carbon market is not functioning properly, it shall submit a report to the European Parliament and to the Council. The report may be accompanied, if appropriate, by proposals aiming at increasing transparency of the **carbon market** and addressing measures to improve its functioning.’

*Amendment*

**(22c) Article 29 is amended as follows:**

‘Report to ensure the better functioning of the carbon market

If, on the basis of regular reports referred to in Article 10(5), the Commission has evidence that the carbon market is not functioning properly, it shall submit a report to the European Parliament and to the Council. ***The report shall include a section dedicated to the interaction between the EU ETS and other Union and national climate and energy policies, as regards the volumes of emissions reductions, the cost effectiveness of such policies, and their impact on demand for EU ETS allowances.*** The report may be accompanied, if appropriate, by ***legislative*** proposals aiming at increasing transparency of the ***EU ETS*** and addressing ***the capacity to contribute to the Union's 2030 and 2050 climate and energy goals and addressing*** measures to improve its functioning, ***including measures to account for the impact of complementary Union-wide energy and climate policies on the supply-demand balance of the EU ETS.***’

**Amendment 137**

**Proposal for a directive  
Article 1 – point 22 d (new)**

Directive 2003/87/EC

Article 30 a (new)

*Text proposed by the Commission*

*Amendment*

**(22d) The following Article is inserted:**

**'Article 30a**

***Adjustments upon global stocktake under the UNFCCC and the Paris Agreement***

***Within six months of the facilitative dialogue under the UNFCCC in 2018 the Commission shall publish a communication assessing the consistency of the Union's climate change legislation with the Paris Agreement goals. In particular, the communication shall examine the role and adequacy of the EU ETS in meeting the Paris Agreement goals.***

***Within six months of the global stocktake in 2023 and subsequent global stocktakes thereafter, the Commission shall submit a report assessing the need to adjust the Union's climate action accordingly.***

***The report shall consider adjustments to the EU ETS within the context of global mitigation efforts and efforts undertaken by other major economies. In particular, the report shall assess the need for stricter emissions reductions, the need to adjust the carbon leakage provisions, and whether or not additional policy measures and tools are needed to meet the greenhouse gas commitments of the Union and Member States.***

***The report shall take into account the risk of carbon leakage, the competitiveness of European industries, investments within the Union and the Union's industrialisation policy.***

***The report shall be accompanied by a legislative proposal, if appropriate, and in such a case the Commission shall in parallel publish a full impact assessment.'***

**Amendment 138**

**Proposal for a directive  
Article 1 – point 22 e (new)**

*Present text*

'3. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the **Community scheme**, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, are added together. **These** units could include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW and units which use exclusively biomass shall not be taken into account for the purposes of this calculation. “Units using exclusively biomass” includes units which use fossil fuels only during start-up or shut-down of the unit.

*Amendment*

**(22e) Annex I(3) is replaced by the following:**

'3. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the **EU ETS**, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, are added together. **Those** units could include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW, **back-up and emergency units used solely to generate electricity for on-site consumption in the event of a power cut** and units which use exclusively biomass shall not be taken into account for the purposes of this calculation. “Units using exclusively biomass” includes units which use fossil fuels only during start-up or shut-down of the unit.'

**Amendment 139**

**Proposal for a directive**

**Article 1 a (new)**

Decision (EU) 2015/1814

Article 1 – paragraph 5 – subparagraphs 1 a and 1 b (new)

*Text proposed by the Commission*

*Amendment*

**Article 1a**

**Amendments to Decision (EU) 2015/1814**

*Decision (EU) 2015/1814 is amended as follows:*

*In Article 1(5), the following subparagraphs are added to the first subparagraph:*

*‘By way of derogation, up until the review period referred to in Article 3, the percentages referred to in this subparagraph shall be doubled. The review shall consider doubling the intake rate until market balance is restored.*

*In addition, the review shall introduce a cap on the MSR and, if appropriate, the review shall be accompanied by a legislative proposal.’*

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