



**2015/0148(COD)**

14.12.2016

# **COMPROMISE AMENDMENTS**

## **1 - 17**

**Draft report**

**Ian Duncan**

(PE582.397v02-00)

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

Proposal for a directive

(COM(2015)0337 – C8-0190/2015 – 2015/0148(COD))



**Compromise 1(shipping)**  
**EPP, S&D, ALDE, GUE/NGL, Greens/EFA**

Compromise amendment covering amendments 178, 203, 204, 716, ITRE 41 and DEVE 23.

Recitals: 86-89, 109, 111, 172, ITRE 2 and DEVE 12

**Proposal for a directive**

**Article 1 – point 2 a (new)**

Directive 2003/87/EC

Chapter IV a (new)

*Text proposed by the Commission*

*Amendment*

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

**'CHAPTER IVa**

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

***Article 30c***

***Introduction***

***As from 2021, in the absence of a comparable system operating under the IMO, CO2 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 30c***

***Scope***

***The provisions of this Chapter shall apply to the allocation and issue of allowances in respect of carbon dioxide (CO2) emissions from ships arriving at, within or departing from ports under the jurisdiction of a Member State in accordance with the provisions laid down in Regulation (EU) 2015/757, starting from 1 January 2023. Articles 12 and 16 shall apply to the maritime activities in the same manner as to other activities.***

***Article 30c***

***Extra allowances for maritime sector***

***By 1 August 2021, the Commission shall adopt delegated acts in accordance with Article 30b to set the total quantity of***

*allowances in line with other sectors and the method of allocation of allowances for the maritime sector through auctioning and the special provisions with regard to the administering Member State. When the maritime sector is included, the total amount of allowances shall be increased for that amount. 20% of the revenues generated from the auctioning of allowances referred to in article 30d shall be used through the fund established under article 30d ('Maritime Climate Fund') to improve energy efficiency and support investments in innovative technologies to reduce CO2 emissions in the maritime sector, including short sea shipping and ports.*

#### *Article 30d*

##### *Maritime Climate Fund*

- 1. A fund to compensate for maritime emissions, improve energy efficiency and facilitate investments in innovative technologies to reduce the CO2 emissions of the maritime sector shall be established.*
- 2. By derogation from Article 12, ship operators may pay to the fund an annual membership contribution in accordance with their total emissions reported for the preceding calendar year under Regulation (EU) 2015/757. 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, at least at 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 CO<sub>2</sub> emissions in the maritime sector, including short sea shipping and ports, through the revenues referred to in paragraph 2 of Article 30c. 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 30e*

##### *International cooperation*

*In the event that an international agreement on global measures to reduce GHG 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.'*

Or. en

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

*Text proposed by the Commission*

*Amendment*

*(2b) 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 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 not to act further on the inclusion of the maritime sector within the EU ETS. If, however, any such agreement is not reached, 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 EU MRV system<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 to reduce CO<sub>2</sub> 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).*

Or. en

**Compromise 2 (small emitters)**

**EPP, S&D, ECR**

Compromise amendment covering amendments 183, 76-77, 698-707, ITRE 16, ITRE 38 and DEVE 24.

Recitals: 10, 173 and ITRE 14

**Proposal for a directive**

**Article 1 – point -1 a (new)**

Directive 2003/87/EC

Article 3 – point u a (new)

*Text proposed by the Commission*

*Amendment*

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

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

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

Or. en

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<sup>1</sup> As defined in Annex of recommendation 2003/361/EC



**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

*Amendment*

**(22 a) 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 a small to medium enterprise** 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

tonnes a year, in accordance with Article 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. '

2008 and 2010 which are below 5 000 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.'

Or. en

## **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.*

Or. en

**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

*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 SMEs emitting less than 50 000 tonnes of CO<sub>2</sub> equivalent in each of the three years preceding the year of application for exclusion.* It should be made possible for

option to do so at the beginning of each trading period.

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 measures for installations that have opted out do not result in higher compliance costs. For small emitters covered by the EU ETS, monitoring, reporting and verification requirements should be simplified for such installations.*

Or. en

**Compromise 3(aviation)**  
**EPP, S&D, ALDE, GUE/NGL, Greens/EFA**

Compromise amendment covering amendments 185-202, 17-18, 75, 691-697, ITRE 41 and DEVE 13-14.

Recitals: 84, 85 and ITRE 2

**Proposal for a directive**

**Article 1 – point -1 a (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.

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

*Amendment*

***(-1a) In Article 3c, the following paragraphs are added to paragraph 2:***

'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.

***The total quantity of allowances for aviation activities in 2021 shall be 10% lower than 2014-2016 average allocation, and then decrease at the same annual rate as the total cap for the EU ETS so as to bring the cap for the aviation sector for flights more in line with the EU ETS sectors by 2030.'***

***For aviation activities to and from aerodromes located in countries outside the EEA, the quantity of allowances from 2021 onwards may be adjusted taking into account the agreed establishment of a global market-based mechanism by the International Civil Aviation Organisation (ICAO). The Commission shall present a legislative proposal to the European Parliament and the Council concerning these activities by 2019 following the 40th assembly of the ICAO.***

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

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

**(-1b) 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).

*Justification*

*Technical adaptation.*

**Proposal for a directive**  
**Article 1 – point -1 c (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 the general review of this Directive.***'

*Amendment*

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

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

*Justification*

*Unused free allowances should be made available to help address the risk of carbon leakage in industries with high carbon and trade intensity.*

**Proposal for a directive**  
**Article 1 – point 1**  
Directive 2003/87/EC  
Article 3d – paragraph 3

*Text proposed by the Commission*

*Amendment*

(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.';

(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 and concerning the 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.'**

Or. en

*Justification*

*TFEU alignment. The content of this provision corresponds to the current wording of the basic act with few technical adjustments.*

**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**

*Amendment*

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

'4. **All revenues shall** be used to tackle climate change in the EU and third countries, inter alia, to reduce greenhouse

**allowances.** *Those* revenues **should** be used to tackle climate change in the EU and third countries, inter alia, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the EU 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. '

gas emissions, to adapt to the impacts of climate change in the EU 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 **may** also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation. '

Or. en

### **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 Any free allocation of allowances under this Directive from 2021 shall only be given if it is confirmed by a subsequent decision made by the European Parliament and the Council, as ICAO Resolution A-39/3 foresees that a global market-based measure should apply from 2021, and the inter-action between this and the EU ETS should be considered by the co-legislators.'***

Or. en

### **Proposal for a directive**

#### **Article 1 – point 22**

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*Commission proposal*

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 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 ***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.

Or. en

**Proposal for a directive**

**Recital 2**

*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

*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 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>.

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>. ***The effort of emission reductions should be fairly shared between sectors covered by the EU ETS.***

<sup>16</sup>

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

<sup>16</sup>

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

Or. en

**Compromise 4(Better functioning of the market)  
EPP, S&D, ECR, ALDE, GUE/NGL, Greens/EFA**

Compromise amendment covering amendments 25, 223-225, 78, 294-297, 709-711 and ITRE 22

Recital: 2, 104-107 and ITRE 4

**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 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. ***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 give attention to the risk of carbon leakage and the impact on investment within the EU.*

Member States shall ensure that any relevant information is submitted to the Commission at least two months before the Commission adopts the report. '

Or. en

## **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 proposals aiming at increasing transparency of the carbon market 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.*** ’

**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.

*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 Europe'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 continuing to stimulate cost-efficient greenhouse gas emission reductions.

**Compromise 5(auction share)**

**EPP, S&D, ECR, ALDE, GUE/NGL, Greens/EFA**

Compromise amendment covering amendments 228-254, 259-260, 21-22, 31, 367-376, 653, 654, ITRE 17 parts 1-3, ITRE 18-19, ITRE 21, ITRE 26 part 1, DEVE 16 parts 1-2 and 4-5.

Recitals: 101, 116-122, 170, 3 and ITRE 6

**Proposal for a directive**

**Article 1 – point 4 - point -a**

Directive 2003/87/EC

Article 10 – paragraph 1

*Text proposed by the Commission*

*Amendment*

'1. From 2019 onwards, Member States shall auction **all** allowances that are not allocated free of charge in accordance with Articles 10a and 10c and are not placed in the market stability reserve established by Decision (EU) 2015/1814 of the European Parliament and of the Council.'

**(-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 market stability reserve established by Decision (EU) 2015/1814 of the European Parliament and of the Council.'

Or. en

**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*

*Amendment*

From 2021 onwards, the share of allowances to be auctioned **by Member States** shall be 57%.

From 2021 onwards, the share of allowances to be auctioned **or cancelled** 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 Article 10(2). Where no adjustment occurs, or where less than 5%**

*points is required to make an adjustment, the remaining quantity of allowances shall be cancelled. Such cancellation shall not exceed 200 million allowances.*

Or. en

**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.***

Or. en

**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.*

Or. en

**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.

Or. en

**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*

*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 would 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 can 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 search,*
- business creation, and*
- monitoring and pre-emptive measures to avoid or minimise the negative impact of 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 into the fund management – 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.”*

Or. en

## **Proposal for a directive**

### **Article 1 – point 4 - point b**

Directive 2003/87/EC

Article 10 – paragraph 2 - point b

#### *Text proposed by the Commission*

'(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."'; and'

#### *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. ***For those Member States eligible under the Modernisation Fund as set out in Article 10d, their share of allowances specified in Annex IIa shall be transferred to their***



**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*

***Where the sum of free allocations in a given year 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 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.***

**Proposal for a directive**

**Recital 6**

*Text proposed by the Commission*

(6) The auctioning of allowances remains the general rule, with free

*Amendment*

(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 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>.

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 leakage**. The Commission's Impact Assessment<sup>18</sup> 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.**

Or. en

### **Compromise 6(earmarking of revenues)**

**EPP, S&D, ECR, ALDE, GUE/NGL, Greens/EFA, EFDD**

Compromise amendment covering amendments 262-288, ITRE 20 parts 1-15 and DEVE 17-18.

### **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

*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**

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:'

revenues generated from the auctioning of allowances referred to in paragraph 2 , including all revenues from the auctioning referred to in paragraph 2, **point (b)**, or the equivalent in financial value of these revenues, **shall** be used for one or more of the following:'

Or. en

[(a) unchanged]

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

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

Or. en

[(c) unchanged]

[(d) unchanged]

[(e) unchanged]

### **Proposal for a directive**

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

Directive 2003/87/EC

Article 10 – paragraph 3 – point f

*Present text*

*Amendment*

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

**(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** '

Or. en

[(g) unchanged]

**Proposal for a directive**

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

Directive 2003/87/EC

Article 10 – paragraph 3 – point h

*Present text*

*Amendment*

'(h) measures intended to increase energy efficiency and insulation or to provide financial support in order to address social aspects in lower and middle income households; '

**(bd) Article 10(3), point (h) is replaced by the following:**

'(h) measures intended to increase energy efficiency, **district heating systems** and insulation or to provide financial support in order to address social aspects in lower and middle income households; '

Or. en

[(i) unchanged]

**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*

*Amendment*

(j) to fund financial measures in favour of sectors or subsectors that are exposed to

(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)*;

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* these measures meet the conditions set out in Article 10a(6);

Or. en

[(k) unchanged]

**Proposal for a directive**

**Article 1 – point 4 – point c**

Directive 2003/87/EC

Article 10 – paragraph 3 – point 1

*Text proposed by the Commission*

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

*Amendment*

(1) 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 close coordination with the social partners.

Or. en

**Proposal for a directive**

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

Directive 2003/87/EC

Article 10 – paragraph 3 – subparagraph 1 b (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 additionally of the use of the funds. The Commission shall make this information public on its website.'*

**Proposal for a directive****Article 1 – point 4 – point c b (new)**

Directive 2003/87/EC

Article 10 – paragraph 3 – subparagraph 2

*Present text*

'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).**'

*Amendment*

**(cb) in paragraph 3, subparagraph 2 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 **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, including all revenues from the auctioning referred to in paragraph 2, **point (b) and have reported these policies in standardised template provided by the Commission** '

Or. en

**Compromise 7(optional cancellation of allowances)****EPP, S&D, ECR, ALDE, GUE/NGL, Greens/EFA**

Compromise amendment covering amendments 24, 290-292, 299 and ITRE 23.

**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 fifth 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. '*

Or. en

**Compromise 8 (dynamic allocation)**

**EPP, S&D, ECR, ALDE, GUE/NGL, Greens/EFA, EFDD, ENF**

Compromise amendment covering amendments 26, 301-307, 311, 33, 401, 448, 658-664, ITRE 24 part 1, ITRE 32 and DEVE 19.

Recitals 112-115 and ITRE 5

**Proposal for a directive**

**Article 1 – point 5 – point a**

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 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:

The Commission *is* empowered to adopt a delegated act in accordance with *30b to supplement this directive and concerning Union-wide and fully harmonised measures for the allocation of the allowances referred to in paragraphs 4, 5, 7 and 12, 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 act, the Commission shall take into account the need to limit administrative complexity and prevent gaming of the system. For this purpose it may, as appropriate, use flexibility in the application of the thresholds set out in this paragraph where this is justified due to specific circumstances.*

Or. en

**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 transition, and targeted free allocation of allowances to industry ***as*** a justified ***exemption from the principle that the polluter should pay as long as 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 should be more dynamic with thresholds expressed in the Directive.***

Or. en



## **Proposal for a directive**

### **Article 1 – point 8**

Directive 2003/87/EC

Article 11 – paragraph 1 – subparagraph 2

#### *Text proposed by the Commission*

A list of installations covered by this Directive for the five years beginning on 1 January 2021 shall be submitted by 30 September 2018, and lists for the subsequent five years shall be submitted every five years thereafter. Each list shall include information on production activity, transfers of heat and gases, electricity production and emissions at sub-installation level over the five calendar years preceding its submission. Free allocations shall only be given to installations where such information is provided.

#### *Amendment*

A list of installations covered by this Directive for the five years beginning on 1 January 2021 shall be submitted by 30 September 2018, and lists for the subsequent five years shall be submitted every five years thereafter. Each list shall include information on production activity, transfers of heat and gases, electricity production and emissions at sub-installation level over the five calendar years preceding its submission. Free allocations shall only be given to installations where such information is provided.

Or. en

## **Compromise 9(Benchmarks)**

**EPP, S&D, ECR, ALDE**

Compromise amendment covering amendments 27-30, 308-310, 312-344, 346-352, 354, 356-357, 361-362, ITRE 24 parts 2-9 and ITRE 25.

Recitals: 133-136, 6 and ITRE 8

## **Proposal for a directive**

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

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 3

#### *Text proposed by the Commission*

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

#### *Amendment*

***(aa) In paragraph 1, subparagraph 3 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

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.'

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.'

Or. en

### **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 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:*

*Amendment*

*The Commission shall adopt delegated acts for the 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:*

*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.*

*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.*

Or. en

**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*

*Amendment*

*(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;*

*deleted*

Or. en

**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.*

*(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.*

Or. en

**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*

***(i a) 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.***

Or. en

**Proposal for a directive**

**Article 1 – point 5 – point b**

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

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

***deleted***

Or. en

**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*

***(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***

***(ba) the following subparagraph is inserted:***

***‘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.

refineries benchmarks in order to preserve a level playing field for producers of these products.’

Or. en

### **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*

*Amendment*

***(bb) the following subparagraph is inserted:***

***‘For the period 2026 to 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.’***

Or. en

### **Proposal for a directive**

#### **Recital 8**

*Text proposed by the Commission*

*Amendment*

(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 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

(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 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 **actual** assessment of progress across **the best 10% performing installations in** sectors, which should then take into account robust, objective and verified data from

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.

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 2007-8 value higher or lower per year over the relevant period, the related benchmark value shall 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 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.

Or. en

**Compromise 10(indirect costs compensation)**

**EPP, S&D, ECR, ALDE, GUE/NGL, EFDD**

Compromise amendment covering amendments 32, 377-389, ITRE 26 part 2, ITRE 27 and DEVE 20.

Recitals: 7, 138-149, ITRE 9 and DEVE10

**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*

**6. 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 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.**

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

***Compensation shall be proportionate to greenhouse gas emission costs actually passed through in the 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 to supplement this directive for this purpose in accordance with Article 30b, putting in place arrangements for the creation and operation of the fund.***

Or. en

## Proposal for a directive

### Article 1 – point 5 – point d

Directive 2003/87/EC

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

#### *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 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.

#### *Amendment*

Member States *may also* 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 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 *and Article 10(3) of this Directive. These measures, when combined with the support referred to in Article 10(1), shall not exceed the maximum level of compensation referred to in the relevant state aid guidelines and should not create new market distortions. The existing ceilings on state aid compensation shall continue to decline throughout the trading period.*

Or. en

## 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 electricity prices. *The Protocol and accompanying decisions adopted by the Conference of the Parties in Paris need to provide for the dynamic mobilisation of*

#### *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 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



***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.

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 ***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 top up the compensation at Union level. Such financial measures should not exceed the levels referred to in the relevant state aid guidelines.***

Or. en

**Compromise 11(NER/MSR)  
EPP, S&D, ECR, ALDE, Greens/EFA, EFDD**

Compromise amendment covering amendments 390-400, 402-406 and ITRE 28.

**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*

*Amendment*

*7. 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(\*).*

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

Or. en

**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*

*Amendment*

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

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

Or. en

**Compromise 12(Innovation Fund)**

**EPP, S&D, ECR, ALDE, Greens/EFA**

Compromise amendment covering amendments 34-39, 409-445, ITRE 26 parts 4-8 and ITRE 29.

Recitals: 8, 150-153 and ITRE 10

**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:

Or. en

**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 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 CO<sub>2</sub>* as well as demonstration projects of innovative renewable energy technologies, in the territory of the Union.

*Amendment*

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

Or. en

**Proposal for a directive**  
**Article 1 – point 5 – point f – subparagraph 2**  
Directive 2003/87/EC  
Article 10a – paragraph 8 – subparagraph 2

*Text proposed by the Commission*

The allowances shall be made available for

*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 **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.

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 **and 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 according to the needs of projects to reach pre-determined milestones.**

Or. en

### **Proposal for a directive**

#### **Article 1 – point 5 – point f – subparagraph 3**

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 market stability reserve established by Decision (EU) 2015/**1814** 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 subparagraphs 1 and 2**, 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 subparagraphs 1 and 2.*

Or. en

**Proposal for a directive**

**Article 1 – point 5 – point f – subparagraph 4**

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 and concerning 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:

- *projects shall focus on the design and development of breakthrough solutions and implementation of demonstration programmes;*
- *the activities shall run close-to-market in production plants to demonstrate the viability of breakthrough technologies in overcoming the technological as well as non-technological barriers;*
- *projects shall address technological solutions that can have widespread applications and may combine different technologies;*
- *solutions and technologies shall ideally have the potential to be transferred within the sector and possibly to other sectors;*
- *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 costs of transitioning towards low-emissions energy production;*

*- CCU projects shall deliver a net reduction in emissions and a permanent storage of CO2 across their lifetime.*

Or. en

### **Proposal for a directive**

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

Directive 2003/87/EC

Article 10a – paragraph 8 – subparagraph 5

#### *Text proposed by the Commission*

‘Allowances shall be set aside for the projects that meet the criteria referred to in the third subparagraph. Support for these projects shall be given via Member States and shall be complementary to substantial co-financing by the operator of the installation. They could also be co-financed by the Member State concerned, as well as by other instruments. No project shall receive support via the mechanism under this paragraph that exceeds 15 % of the total number of allowances available for this purpose. These allowances shall be taken into account under paragraph 7.’

#### *Amendment*

‘Allowances shall be set aside for the projects that meet the criteria referred to in the third subparagraph. Support for these projects shall be given via Member States and shall be complementary to substantial co-financing by the operator of the installation. They could also be co-financed by the Member State concerned, as well as by other instruments. No project shall receive support via the mechanism under this paragraph that exceeds 15% of the total number of allowances available for this purpose. These allowances shall be taken into account under paragraph 7.’

Or. en

### **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* CO2 (CCS), new renewable energy technologies and breakthrough innovation

#### *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

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 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.

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 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.

Or. en

**Compromise 13(Carbon Leakage)**  
**EPP, S&D, ECR, ALDE, GUE/NGL, Greens/EFA**

Compromise amendment covering amendments 40-44, 449-459, 461-507, 510-514, ITRE 30 title, and ITRE 30 parts 1-7.

Recitals: 5, 123-128, 130-132 and ITRE 7 **Proposal for a directive**

**Article 1 – point -1 a (new)**

Directive 2003/87/EC

Article 2 - paragraph 1

*Present text*

*Amendment*

***(-1a) In Article 2, paragraph 1 is modified as follows:***

‘1. This Directive shall apply to emissions from the activities listed in Annex I and greenhouse gases listed in Annex II.’

‘1. This Directive shall apply to emissions from activities listed in Annex I, greenhouse gases listed in Annex II and ***importers as set out in Article 10b.***’

Or. en

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

Article 10b – title

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

Article 10b – paragraph 1



*Text proposed by the Commission*

Sectors and sub-sectors where the product exceeds 0.2 from multiplying their intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries), by their emission intensity, measured in kgCO<sub>2</sub> divided by their gross value added (in €), shall be deemed to be at risk of carbon leakage. Such sectors and sub-sectors shall be allocated allowances free of charge for the period up to 2030 at 100% of the quantity determined in accordance with the measures adopted pursuant to Article 10a.

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

Article 10b – paragraph 1a (new)

*Text proposed by the Commission*

*Amendment*

Sectors and sub-sectors where the product exceeds 0.2 from multiplying their intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries), by their emission intensity, measured in kgCO<sub>2</sub> divided by their gross value added (in €), shall be deemed to be at risk of carbon leakage. Such sectors and sub-sectors shall be allocated allowances free of charge for the period up to 2030 at 100% of the quantity determined in accordance with the measures adopted pursuant to Article 10a.

*Amendment*

***An import inclusion scheme, fully compatible with WTO rules shall be established. It shall require importers in sectors not having a trade intensity above 10% in the years 2009 to 2013 covered by the EU ETS to acquire and surrender allowances for imported products.***

***The Commission shall adopt a delegated act by 30 June 2019 specifying the exact design of the detailed requirements for this scheme. Before presenting the delegated act, the Commission shall carry out an impact assessment, including a stakeholder consultation and feasibility study looking at the most effective way to introduce such a scheme. This assessment shall be published together with the communication assessing the consistency of the EU's climate change legislation with the Paris Agreement goals published within six months of the***

*facilitative dialogue under the UNFCCC in 2018, as laid down in Article 30a.*

*Once this mechanism is in place, no free allocation shall be given to sectors and subsectors that are deemed to be at risk of carbon leakage but covered by the import inclusion carbon mechanism.*

Or. en

## **Proposal for a directive**

### **Article 1 – point 6**

Directive 2003/87/EC

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.***

**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, 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.

*Amendment*

3. **District heating 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. **Other sectors and sub-sectors shall not be allocated any allowances free of charge.**

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

Directive 2003/87/EC

Article 10b – paragraph 4

*Text proposed by the Commission*

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*

By 31 December 2019, the Commission shall adopt delegated **acts in accordance with Article 30b to supplement this directive and 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, activities which are at the relevant level of disaggregation based on public and sector specific data as appropriate 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.

**Proposal for a directive**  
**Recital 7**

(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 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.

(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 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. In order to reduce the pressure on the availability of free allowances, an import inclusions scheme,***

*fully compatible with WTO rules should be established. The scheme should focus on sectors with a low trade intensity and high emissions intensity such as cement and clinker.*

**Compromise 14 (transitional free allocation to energy sectors)**

**EPP, S&D, ECR, ALDE**

Compromise amendment covering amendments 449, 451, 45-52, 515-586, 657, 665 and ITRE

30 parts 8-23.

Recitals: 9, 163-169 and ITRE 12

**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 **2013a** 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.***

Or. en

**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 the previous sentence but which had in 2014 a GDP per capita in € at market prices below 60% of the Union average may also make use of this derogation 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.***

Or. en

**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.***

Or. en

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

2. The Member State concerned shall organise a competitive bidding process for projects with a total amount of investment exceeding €10 million to select the investments to be financed with free allocation. This competitive bidding process shall:

2. The Member State concerned shall organise a competitive bidding process for projects with a total amount of investment exceeding **EUR** 10 million to select the investments to be financed with free allocation. This competitive bidding process shall:

Or. en

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

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

*Text proposed by the Commission*

*Amendment*

(a) comply with the principles of transparency, non-discrimination, equal

(a) comply with the principles of transparency, non-discrimination, equal



treatment and sound financial management;

treatment and sound financial management;

Or. en

**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*

(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;

*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 (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;

Or. en

**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 EU 2050 climate and energy policy objectives** for the ranking of projects, so as to ensure that projects are selected which:

Or. en

## 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. The Commission shall adopt a delegated act in accordance with Article 30b by 1st 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.***

Or. en

## 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, ***but may be used to meet the relevant targets set under the 2030 energy and climate change framework***, clearly respond to replacement and modernisation needs, do not supply a market-driven increase in energy demand;

Or. en

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

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

*Text proposed by the Commission*

*Amendment*

(iii) offer best value for money;

(iii) offer best value for money;

Or. en

**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 no contribute to new coal-fired energy generation nor increase coal-dependency.***

Or. en

**Proposal for a directive**

**Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

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.

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.

Or. en

## 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 €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. These criteria shall be subject to public consultation, ensuring full transparency and accessibility of relevant documents, and fully take into account 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.

Or. en

## 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.**

Or. en

**Proposal for a directive**  
**Article 1 – point 6**  
Directive 2003/87/EC  
Article 10c – paragraph 4

*Text proposed by the Commission*

4. Transitional free allocations shall be deducted from the quantity of allowances that the Member State would otherwise auction. The total free allocation shall be no more than 40% of the allowances which the Member State concerned receives in the period 2021-30 pursuant to Article 10(2)(a) spread out in equal annual volumes over the period from 2021-30.

*Amendment*

4. Transitional free allocations shall be deducted from the quantity of allowances that the Member State would otherwise auction. The total free allocation shall be no more than 40% of the allowances which the Member State concerned receives in the period 2021-30 pursuant to Article 10(2)(a) spread out in equal annual volumes over the period from 2021-30.

Or. en

**Proposal for a directive**  
**Article 1 – point 6**  
Directive 2003/87/EC  
Article 10c – paragraph 5

*Text proposed by the Commission*

5. Allocations to operators shall be made upon demonstration that an investment selected according to the rules of the competitive bidding process has been carried out.

*Amendment*

5. Allocations to operators shall be made upon demonstration that an investment selected according to the rules of the competitive bidding process has been carried out.

Or. en

**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

*Amendment*

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

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 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 public. ***Member States and the Commission shall monitor and analyse potential arbitrage with regard to the threshold of €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.***

Or. en

## **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 according to the provisions set out in paragraphs 2 to 6, the European 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 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.***

**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 above, the Commission may require the Member State to withhold free allocation.**

Or. en

**Proposal for a directive****Recital 12***Text proposed by the Commission**Amendment*

(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 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

(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 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 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**

of their implementation.

*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 to transfer part of all corresponding allowances to the Modernisation Fund if they are eligible to use both instruments. The derogation should be terminated by the end of Phase IV EU ETS.*

Or. en

### **Compromise 15(Modernisation Fund)**

**EPP, S&D, ECR, GUE/NGL**

Compromise amendment covering amendments 53-59, 587-652, ITRE 31 and DEVE 21-22.

Recitals:155-162 and ITRE 11

### **Proposal for a directive**

**Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 1 – subparagraph 1

#### *Text proposed by the Commission*

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.

#### *Amendment*

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 shall be established for the period *from 2021 to 2030* and financed as set out in Article 10.

Or. en

### **Proposal for a directive**

**Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 1 – subparagraph 2



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

The investments supported shall ***comply with the principles of transparency, non-discrimination, equal treatment, sound financial management and shall offer 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 1st 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) are additional, but may be used to meet the relevant targets set under the 2030 energy and climate change framework, clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand;***

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

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.***

Or. en

## **Proposal for a directive**

### **Article 1 – point 7**

Directive 2003/87/EC  
Article 10d – paragraph 2

*Text proposed by the Commission*

*Amendment*

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.

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 ***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. These rules shall be made 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.*

Or. en

**Proposal for a directive**

**Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 3

*Text proposed by the Commission*

3. The funds shall be distributed based on a combination of a 50% share of verified emissions and a 50% share of GDP criteria, leading to the distribution set out in Annex IIb.

*Amendment*

3. The funds shall be distributed based on a combination of a 50% share of verified emissions and a 50% share of GDP criteria, leading to the distribution set out in Annex IIb.

Or. en

**Proposal for a directive**

**Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 3a - 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.*

Or. en

**Proposal for a directive**

**Article 1 – point 7**

Directive 2003/87/EC

Article 10d – paragraph 4 – subparagraph 1

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 of the fund.***

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 European Commission, the European Investment Bank, and three observers from interested parties (industrial federations, trade unions, NGOs). The investment board shall be responsible for determining a Union-level investment policy, which is in line with the requirements set out in this Article and 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 European Commission, a representative of the European Investment Bank, 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 shall be responsible for the day-to-day management of the fund.***

Or. en

**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*.

Or. en

**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 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*.

Or. en

**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.

Or. en

**Proposal for a directive**

**Article 1 – point 7**

Directive 2003/87/EC

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 public and include:

Or. en

[5(a) and (b) to remain unchanged]

**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**.

Or. en

**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 and concerning the detailed arrangements for the effective functioning of the Modernisation Fund**.

Or. en

**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

*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 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 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.***

allowances, and 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. ***Member States who in 2013 had a GDP per capita at market exchange rates below 60% below the Union average should be eligible to*** 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 *and diversifying* their energy sector ***in line with the Union 2030 and 2050 climate and energy goals***, 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 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 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 ***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.

Or. en

**Compromise 16(Paris Alignment)**  
**EPP, S&D, ECR, ALDE, GUE/NGL, EFDD**

Compromise amendment covering amendments 79, 226-227, 498, 510-513, 690, 708, 712-715, ITRE 39-40 and DEVE 25.

Recitals: 1, 4, 90, 92-98, 102, ITRE 2, DEVE 1-3, DEVE 5, DEVE 6 and DEVE 8

**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 EU’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 EU 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.*

Or. en

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

*Text proposed by the Commission*

*Amendment*

*(2 a) Under the Agreement adopted in Paris at the 21<sup>st</sup> Conference of the Parties of the United Nations Framework Convention on Climate Change 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 aims 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 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 a communication is*

*adopted within six months of the facilitative dialogue under the UNFCCC in 2018 assessing the consistency of the EU's climate change legislation with the Paris Agreement goals.*

Or. en

**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 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.

*Amendment*

(3) A well-functioning, reformed EU ETS with an ***enhanced*** instrument to stabilise the market ***and a significant number of surplus allowances removed from the market*** will be the main European instruments to achieve this 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.*** ***These provisions should be kept under review in line with the Paris Agreement and adjusted accordingly if necessary to fulfil the EU's climate obligations therein.***

Or. en

**Compromise 17(Amendment to Decision (EU) 2015/1814 – doubling the MSR intake rate for the first three years of operation)**

**EPP, S&D, ECR, ALDE, GUE/NGL, Greens/EFA, EFDD**

Compromise amendment covering amendments 257, 258, 261, 298-299, 672-675, 729 and ITRE 17 part 4.

Recitals: 99 and DEVE 7

**Proposal for a directive**

**Article 1 a (new)**

Decision (EU) 2015/1814

Article 1 – paragraph 5

*Present text*

Each year, a number of allowances equal to 12 % of the total number of allowances in circulation, as set out in the most recent publication as referred to in paragraph 4 of this Article, shall be deducted from the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and shall be placed in the reserve over a period of 12 months beginning on 1 September of that year, unless the number of allowances to be placed in the reserve would be less than 100 million. In the first year of the reserve's operation, placements shall also take place between 1 January and 1 September of that year of 8 % (representing 1 % for each calendar month) of the total number of allowances in circulation as set out in the most recent publication.

*Amendment*

**Article 1a**

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

***In Article 1, the following sentence is added to the first subparagraph of paragraph 5:***

***‘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.***

*Justification*

*The intake rate for the MSR should be doubled for the first four years of operation.*

Or. en

**Proposal for a directive**

**Article 1 – point 4 - point -e**

Directive 2003/87/EC

Article 10 – paragraph 1- subparagraph 4 c (new)

*Text proposed by the Commission*

*Amendment*

***800 million allowances shall be cancelled  
from the MSR on the 1st of January 2021.***

Or. en