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*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community (COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Avril Doyle

Rapporteur for opinion (*):
Lena Ek, Committee on Industry, Research and Energy

(*) Associated committee - Rule 47 of the Rules of Procedure

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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(*) Associated committee - Rule 47 of the Rules of Procedure

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community
(COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))**

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0016),
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0043/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Industry, Research and Energy, the Committee on International Trade, the Committee on Economic and Monetary Affairs and the Committee on Regional Development (A6-0406/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Amendment 1

Proposal for a directive – amending act Recital 2

Text proposed by the Commission

(2) The ultimate objective of the United Nations Framework Convention on Climate Change, which was approved on behalf of the European Community by Council Decision 94/69/EC of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change (UNFCCC), is to stabilise greenhouse gas concentrations in the atmosphere at a level

Amendment

(2) The ultimate objective of the United Nations Framework Convention on Climate Change, which was approved on behalf of the European Community by Council Decision 94/69/EC of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change (UNFCCC), is to stabilise greenhouse gas concentrations in the atmosphere at a level

that would prevent dangerous anthropogenic interference with the climate system. In order to meet that objective, the overall global annual mean surface temperature increase should not exceed 2°C above pre-industrial levels. The latest Intergovernmental Panel on Climate Change Assessment (IPCC) report shows that, in order to reach that objective, global emissions of greenhouse gases must peak by 2020. This implies the increasing of efforts by the Community and the quick involvement of developed countries and encouraging the participation of developing countries in the emission reduction process.

that would prevent dangerous anthropogenic interference with the climate system. In order to meet that objective, the overall global annual mean surface temperature increase should not exceed 2°C above pre-industrial levels. The latest Intergovernmental Panel on Climate Change Assessment (IPCC) report shows that, in order to reach that objective, global emissions of greenhouse gases must peak by 2020. ***Recent scientific findings show that atmospheric concentration of carbon dioxide must be reduced to below 350 parts per million, which would imply a greenhouse gas emission reduction in the order of 60% by 2035.*** This implies the increasing of efforts by the Community and the quick involvement of developed ***and newly industrialised*** countries and encouraging the participation of developing countries in the emission reduction process.

Justification

As the climate situation is more serious than previously though the recent forum held in Tällberg, Sweden, with the participation of scientists from NASA and Stockholm Environment Institute suggest that we must reduce atmospheric CO₂ to levels below 350 ppm (parts per million) in order to avoid catastrophic effects. Until recently, scientific consensus set the safe zone to avoid the worst effects of climate change at 450 ppm whereas new finding now show that the critical level starts already at 350 ppm. This would translate into a reduction of at least 60% GHG emissions by 2030 and 100% by 2050.

Amendment 2

Proposal for a directive – amending act Recital 3

Text proposed by the Commission

(3) The European Council has made a firm commitment to reduce the overall greenhouse gas emissions of the Community by at least 20% below 1990 levels by 2020, and by 30% provided that other developed countries commit

Amendment

(3) The European Council has made a firm commitment to reduce the overall greenhouse gas emissions of the Community by at least 20% below 1990 levels by 2020, and by 30% provided that other developed countries commit

themselves to comparable emission reductions and economically more advanced developing countries contribute adequately according to their responsibilities and respective capabilities. By 2050, global greenhouse gas emissions should be reduced by at least 50% below their 1990 levels. All sectors of the economy should contribute to achieving these emission reductions.

themselves to comparable emission reductions and economically more advanced developing countries contribute adequately according to their responsibilities and respective capabilities. By 2050, global greenhouse gas emissions should be reduced by at least 50% below their 1990 levels. All sectors of the economy should contribute to achieving these emission reductions, ***including shipping and aviation. Aviation is contributing to the 20% and 30% (provided that other developed countries and other major emitters of greenhouse gases participate in the future international agreement) reductions through its inclusion in the Community scheme. Until shipping is included in the Community scheme, emissions from shipping must be included in the Decision on the effort of Member States to meet the Community's greenhouse gas emission reduction commitments up to 2020.***

Justification

For clarification purposes.

Amendment 3

Proposal for a directive – amending act Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) In its resolution of 31 January 2008 on the outcome of the Bali Conference on Climate Change (COP 13 and COP/MOP 3), the European Parliament recalled its position that industrialised countries should commit to reducing their greenhouse gas emissions by at least 30% by 2020 and by 60-80% by 2050, compared to 1990 figures. Given that it anticipates a positive outcome to the COP 15 negotiations to be held in Copenhagen in 2009, the European Union should

begin to prepare tougher emission reduction targets for 2020 and beyond and should seek to ensure that, after 2013, the Community scheme allows, if necessary, for more stringent emission caps, as part of the Union's contribution to a new international agreement.

Justification

It is important to stress Parliament's strong ambitions with regard to fighting climate change. The best way to accomplish this is through an international agreement, to be reached in Copenhagen by end 2009. This proposal should be seen as a proof of EU's strong commitment in this respect, but also as a signal that the EU is preparing for the tighter targets that will come with the new agreement.

Amendment 4

Proposal for a directive – amending act Recital 10

Text proposed by the Commission

(10) Where equivalent measures to reduce greenhouse gas emissions, in particular taxation, are in place for small installations whose emissions do not exceed a threshold of **10 000** tonnes of CO₂ per year, there should be a procedure for enabling Member States to exclude such small installations from the emissions trading system for so long as those measures are applied. This threshold **relatively** offers the maximum gain in terms of reduction of administrative costs for each tonne excluded from the system, **for reasons of administrative simplicity**. As a consequence of the move from five-year allocation periods, and in order to increase certainty and predictability, provisions should be *set* on the frequency of revision of greenhouse gas emission permits.

Amendment

(10) Where equivalent measures to reduce greenhouse gas emissions, in particular taxation, are in place for small installations whose emissions do not exceed a threshold of **25 000** tonnes of CO₂ per year, there should be a procedure for enabling Member States to exclude **at the request of the operator** such small installations from the emissions trading system for so long as those measures are applied. **Hospitals may also be excluded if they undertake equivalent measures**. This threshold **is the economically most advantageous option** and offers the maximum gain in terms of reduction of administrative costs for each tonne excluded from the system. As a consequence of the move from five-year allocation periods, and in order to increase certainty and predictability, provisions should be *laid down* on the frequency of revision of greenhouse gas emission permits.

Amendment 5

Proposal for a directive – amending act Recital 12

Text proposed by the Commission

(12) This contribution is equivalent to a reduction of emissions in 2020 in the Community scheme of 21% below reported 2005 levels, including the effect of the increased scope from the period 2005 to 2007 to the period 2008 to 2012 and the 2005 emission figures for the trading sector used for the assessment of the Bulgarian and Romanian national allocation plan for the period 2008 to 2012, leading to an issue of a maximum of 1 720 million allowances in the year 2020. Exact quantities of emissions will be calculated once Member States have issued allowances pursuant to Commission Decisions on their national allocation plans for the period 2008 to 2012, as the approval of allocations to some installations was contingent upon their emissions having been substantiated and verified. Once the issue of allowances for the period 2008 to 2012 has taken place, the Commission will publish the Community-wide quantity. Adjustments should be made to the Community-wide quantity in relation to installations which are included in the Community scheme during the period 2008 to 2012 or from 2013 onwards.

Amendment

(12) This contribution is equivalent to a reduction of emissions in 2020 in the Community scheme of 21% below reported 2005 levels, including the effect of the increased scope from the period 2005 to 2007 to the period 2008 to 2012 and the 2005 emission figures for the trading sector used for the assessment of the Bulgarian and Romanian national allocation plan for the period 2008 to 2012, leading to an issue of a maximum of 1 720 million allowances in the year 2020. Exact quantities of emissions will be calculated once Member States have issued allowances pursuant to Commission Decisions on their national allocation plans for the period 2008 to 2012, as the approval of allocations to some installations was contingent upon their emissions having been substantiated and verified. Once the issue of allowances for the period 2008 to 2012 has taken place, the Commission will publish the Community-wide quantity. Adjustments should be made to the Community-wide quantity in relation to installations which are included in ***or excluded from*** the Community scheme during the period 2008 to 2012 or from 2013 onwards.

Justification

Not only upward adjustments need to take place. It is important to reduce the total amount of allowances when installations are excluded from EU ETS in order to avoid a relaxation of the cap for the remaining installations.

Amendment 6

Proposal for a directive – amending act
Recital 14

Text proposed by the Commission

(14) All Member States will need to make substantial investments to reduce the carbon intensity of their economies by 2020 and those Member States where income per capita is still significantly below the Community average and whose economies are in the process of catching up with the richer Member States will need to make a significant effort to improve energy efficiency. The objectives of eliminating distortions to intra-Community competition and of ensuring the highest degree of economic efficiency in the transformation of the EU economy towards a low carbon economy make it inappropriate to treat economic sectors differently under the Community scheme in individual Member States. It is therefore necessary to develop other mechanisms to support the efforts of those Member States with relatively lower income per capita and higher growth prospects. 90% of the total quantity of allowances to be auctioned should be distributed amongst Member States according to their relative share of **2005** emissions ***in the Community scheme***. 10% of this quantity should be distributed to the benefit of those Member States for the purpose of solidarity and growth in the Community, to be used to reduce emissions and adapt to the effects of climate change. This distribution of this 10% should take into account levels of income per capita in the year 2005 and the growth prospects of Member States, and be higher for Member States with low income levels per head and high growth prospects. Member States with an average level of income per capita that is more than 20% higher than the average in the Community should contribute to this distribution, except where the direct costs of the overall package estimated in SEC(2008) 85 exceed 0.7% of GDP.

Amendment

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Justification

Instead of using data for an individual year, the distribution of emission allowances should be calculated on the basis of average values for at least two years. The quantities of emissions from one year to the next can also vary for natural reasons: this implies that a period, rather than a year, should be taken as the reference point. The Commission proposal states, moreover, that the Commission would be willing to factor the 2006 emission figures into the comparison once they have become available. It is important to bear in mind that a calculation base covering several years will not alter the Community's emission allowances as a whole.

Amendment 7

Proposal for a directive – amending act Recital 15

Text proposed by the Commission

(15) Given the considerable efforts of combating climate change and of adapting to its inevitable effects, it is appropriate that ***at least 20%*** of the proceeds from the auctioning of allowances should be used to reduce greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for reducing emissions and adaptation, to develop renewable energies to meet the EU's commitment to using 20% renewable energies by 2020, to meet the commitment of the Community to increase energy efficiency by 20% by 2020, for the capture and geological storage of greenhouse gases, to contribute to the Global Energy Efficiency and Renewable Energy Fund, for measures to avoid deforestation ***and facilitate adaptation in developing countries***, and for addressing social aspects such as ***possible increases in electricity prices in lower and middle income households. This proportion is significantly below the expected net revenues for public authorities from auctioning, taking into account potentially reduced income from***

Amendment

(15) Given the considerable efforts of combating climate change and of adapting to its inevitable effects, it is appropriate that ***50%*** of the proceeds from the auctioning of allowances should be used ***in a dedicated international fund*** to reduce greenhouse gas emissions, to adapt to the impacts of climate change, ***and*** to fund research and development for reducing emissions and adaptation ***in developing countries that have ratified the international agreement. The remaining revenues from auctioning should be used to address climate change issues in the European Union, inter alia to reduce greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for reducing emissions and adaptation***, to develop renewable energies to meet the EU's commitment to using 20% renewable energies by 2020, to meet the commitment of the Community to increase energy efficiency by 20% by 2020, for the capture and geological storage of greenhouse gases, to contribute to the Global Energy Efficiency and Renewable Energy Fund,

corporate taxes. In addition, proceeds from auctioning of allowances should be used to cover administrative expenses of the management of the Community scheme. Provisions should be included on monitoring the use of funds from auctioning for these purposes. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty.

for measures to avoid deforestation and for addressing social aspects such as **energy poverty**. In addition, proceeds from auctioning of allowances should be used to cover administrative expenses of the management of the Community scheme. Provisions should be included on monitoring the use of funds from auctioning for these purposes. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty.

Amendment 8

Proposal for a directive – amending act Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Given the magnitude and speed of global deforestation, it is essential that revenues from auctioning in the Community scheme be used to reduce deforestation and increase sustainable afforestation and reforestation. In addition, the EU should work to establish an internationally recognised system for reducing deforestation and increasing afforestation and reforestation. Revenues should be contributed by Member States to a dedicated fund to be effectively disbursed for this and other purposes internationally.

Amendment 9

Proposal for a directive – amending act
Recital 15 b (new)

Text proposed by the Commission

Amendment

(15b) Given that the auctioning revenues earmarked for deforestation, afforestation and reforestation will not suffice to halt worldwide deforestation, additional measures may be needed.

Justification

Need to be realistic and do not pretend to solve the abovementioned problems with 20% of the auctioning revenues.

Amendment 10

Proposal for a directive – amending act
Recital 15 c (new)

Text proposed by the Commission

Amendment

(15c) In order to promote an equitable and cost effective distribution of projects in third countries and the dissemination of best practice concerning all activities mentioned in recital 15, mechanisms should be set up to ensure effective information sharing regarding projects undertaken by different Member States.

Justification

It is important that Member State projects intended to meet obligations under Article 10(3) are well coordinated so as to ensure funds are directed towards the most necessary and effective projects and that duplication is avoided.

Amendment 11

Proposal for a directive – amending act
Recital 16

Text proposed by the Commission

Amendment

(16) Consequently, full auctioning should be the rule from 2013 onwards for the

(16) Consequently, full auctioning should be the rule from 2013 onwards for the

power sector, taking into account their ability to pass on the increased cost of CO₂, ***and no free allocation should be given for carbon capture and storage as the incentive for this arises from allowances not being required to be surrendered in respect of emissions which are stored.*** Electricity generators may receive free allowances for heat produced through high efficiency cogeneration as defined by Directive 2004/8/EC ***in the event that such heat produced by installations in other sectors were to be given free allocations, in order to avoid distortions of competition.***

power sector, taking into account their ability to pass on the increased cost of CO₂. Electricity generators ***should*** receive free allowances for ***district heating, and*** for heat produced through high efficiency cogeneration as defined by Directive 2004/8/EC ***in respect of the production of heating and cooling, up to the level of the best available technologies, and electricity produced either in connection with industrial heat through high efficiency cogeneration as defined by Directive 2004/8/EC or from residues from an industrial process using best available technologies, provided that it is produced for the own consumption of the operators of the installations; all of these should receive allocation under the same principles as applied to that industrial activity as mentioned in Annex I to Directive 2003/87/EC.***

Amendment 12

Proposal for a directive – amending act Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) The main long-term incentive for carbon capture and storage and new renewable technologies is that allowances will not need to be surrendered for CO₂ emissions from power generation which are permanently stored, or avoided. In addition, to accelerate deployment of the first commercial facilities, auction revenues should be used and allowances should be set aside from the new entrants reserve to finance a guaranteed reward for CO₂ tonnes stored or avoided for the first such facilities in the EU or any third country that has ratified the future international agreement on climate change provided there is an agreement on sharing intellectual property rights for the

technology.

Justification

New renewable technologies that have not been commercially tested are incorporated in the extra financing mechanism. 180 GW of new wind power capacity by end 2020 would avoid an amount of emissions which corresponds to 70% of the proposed 21% ETS reduction target. Supporting new large scale innovations in the field of renewables present real opportunities for kick-starting technologies that will make a significant contribution to achieving the targets both in EU and globally.

Amendment 13

Proposal for a directive – amending act
Recital 16 b (new)

Text proposed by the Commission

Amendment

(16b) In order to ensure an orderly functioning of the carbon and electricity markets, the auctioning of allowances for the period from 2013 onwards should start by 2011 at the latest and be based on clear and objective principles defined well in advance.

Justification

It is essential that the carbon market functions timely, effectively and with sufficient liquidity in order to support the efficient operation of the electricity market. Since this market is characterized by forward contracts, the actual auctioning should start to take place well in advance of the period. Furthermore, the auctioning principles and detailed design provisions should be publicized well in advance in order to allow companies to optimise bid strategies.

Amendment 14

Proposal for a directive – amending act
Recital 18

Text proposed by the Commission

Amendment

(18) Transitional free allocation to installations should be provided for through harmonised Community-wide rules ("**benchmarks**") in order to minimise distortions of competition *with* the Community. These rules should **take**

(18) Transitional free allocation to installations should be provided for through harmonised Community-wide rules ***in the form of ex ante sector specific benchmarks*** in order to minimise distortions of competition *within* the

account of the most greenhouse gas and energy efficient techniques, substitutes, alternative production processes, use of biomass, renewables and greenhouse gas capture and storage. Any such rules should not give incentives to increase emissions **and** ensure that an increasing proportion of these allowances is auctioned. Allocations must be fixed prior to the trading period so as to enable the market to function properly. They shall also avoid undue distortions of competition on the markets for electricity and heat supplied to industrial installations. These rules should apply to new entrants carrying out the same activities as existing installations receiving transitional free allocations. To avoid any distortion of competition within the internal market, no free allocation should be made in respect of the production of electricity by new entrants. Allowances which remain in the set-aside for new entrants in 2020 should be auctioned.

Community. These rules should **be based on** the most greenhouse gas and energy efficient techniques **and technologies**, substitutes, alternative production processes, use of biomass, renewables and greenhouse gas capture and storage **and take into account potential, including the technical potential, to reduce emissions**. Any such rules should not give incentives to increase emissions **overall or per unit of production**. **They should** ensure that an increasing proportion of these allowances is auctioned. **For each sector, the benchmark should be calculated on the final product to maximise greenhouse gas emission and energy efficiency savings throughout the production process of the sector concerned**. Allocations must be fixed prior to the trading period so as to enable the market to function properly. They shall also avoid undue distortions of competition on the markets for electricity and heat supplied to industrial installations. These rules should apply to new entrants carrying out the same activities as existing installations receiving transitional free allocations. **A new entrant means an installation which has obtained a greenhouse gas emission permit subsequent to the submission to the Commission of the list referred to in Article 11(1), or an update of its greenhouse gas emission permit because of an extension of at least 20% in the installation's capacity or a significant change in its nature and functioning. In defining the principles for setting ex ante benchmarks in individual sectors, the Commission should consult the sectors concerned**. To avoid any distortion of competition within the internal market, no free allocation should be made in respect of the production of electricity by new entrants. Allowances which remain in the set-aside for new entrants in 2020 should be auctioned.

Amendment 15

Proposal for a directive – amending act Recital 19

Text proposed by the Commission

(19) The Community will continue to take the lead in the negotiation of an ambitious international agreement that will achieve the objective of limiting global temperature increase to 2°C and is encouraged by the progress made in Bali **towards this objective**. In the event that other developed countries and other major emitters of greenhouse gases do not participate in **this international agreement**, this could lead to an increase in greenhouse gas emissions in third countries where industry would not be subject to comparable carbon constraints (“carbon leakage”), and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage. This could undermine the environmental integrity and benefit of actions by the Community. To address the risk of carbon leakage, the Community will allocate allowances free of charge up to 100% to **sectors or sub-sectors** meeting the relevant criteria. The definition of these **sectors and sub-sectors** and the measures required will be subject to re-assessment to ensure that action is taken where necessary and to avoid overcompensation. For those specific **sectors or sub-sectors** where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently, the action taken may take into account the electricity consumption in the production process, without changing the total quantity of allowances.

Amendment

(19) The Community will continue to take the lead in the negotiation of an ambitious international agreement **and/or international sectoral agreements** that will achieve the objective of limiting global temperature increase to 2°C and is encouraged by the progress made in Bali **as Kyoto Protocol Annex I countries signed up to greenhouse gas emission reductions in the range of 25-40% by 2020 compared to 1990. To maintain the lead in that group of countries, the EU will need to reduce greenhouse gas emissions in the upper end of that range**. In the event that other developed countries and other major emitters of greenhouse gases do not participate in **such international agreements**, this could lead to an increase in greenhouse gas emissions **from less carbon efficient installations** in third countries where industry would not be subject to comparable carbon constraints (“carbon leakage”), and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage. This could undermine the environmental integrity and benefit of actions by the Community. To address the risk of carbon leakage, **the Commission should support the setting up of global sectoral agreements and, where such agreements do not prove possible**, the Community will allocate allowances free of charge up to 100% to **sub-sectors or installations** meeting the relevant criteria. The definition of these **sub-sectors and installations** and the measures required will be subject to re-assessment to ensure that action is taken where necessary and to avoid overcompensation. For those specific

sub-sectors and installations where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently, the action taken may take into account the electricity consumption in the production process, without changing the total quantity of allowances.

Amendment 16

Proposal for a directive – amending act Recital 20

Text proposed by the Commission

(20) The Commission should therefore review the situation by **June 2011** at the latest, consult with all relevant social partners, and, in the light of the outcome of the international negotiations, submit a report accompanied by any appropriate proposals. In this context, the Commission should identify which energy intensive industry sectors or sub-sectors are likely to be subject to carbon leakage **not later than 30 June 2010**. It should base its analysis on the assessment of the inability to pass on the cost of required allowances in product prices without significant loss of market share to installations outside the Community not taking comparable action to reduce emissions. Energy-intensive industries which are determined to be exposed to a significant risk of carbon leakage could receive a higher amount of free allocation or an effective carbon equalisation system could be introduced with a view to putting installations from the Community which are at significant risk of carbon leakage and those from third countries on a comparable footing. Such a system could apply requirements to importers that would be no less favourable than those applicable to installations within

Amendment

(20) The Commission should therefore review the situation by **June 2010** at the latest, consult with all relevant social partners, and, in the light of the outcome of the international negotiations, submit a report accompanied by any appropriate proposals. In this context, the Commission should **at the same time** identify which energy intensive industry sectors or sub-sectors are likely to be subject to carbon leakage. It should base its analysis on the assessment of the inability to pass on the **increased** cost of required allowances in product prices **due only to the provisions in this Directive** without significant loss of market share to installations outside the Community not taking comparable action to reduce emissions. Energy-intensive industries which are determined to be exposed to a significant risk of carbon leakage could receive a higher amount of free allocation or an effective carbon equalisation system could be introduced with a view to putting installations from the Community which are at significant risk of carbon leakage and those from third countries on a comparable footing. Such a system could apply requirements to importers that would be no less favourable

the EU, for example by requiring the surrender of allowances. Any action taken would need to be in conformity with the principles of the UNFCCC, in particular the principle of common but differentiated responsibilities and respective capabilities, taking into account the particular situation of Least Developed Countries. It would also need to be in conformity with the international obligations of the Community including the WTO agreement.

than those applicable to installations within the EU, for example by requiring the surrender of allowances. Any action taken would need to be in conformity with the principles of the UNFCCC, in particular the principle of common but differentiated responsibilities and respective capabilities, taking into account the particular situation of Least Developed Countries. It would also need to be in conformity with the international obligations of the Community including the WTO agreement.

Amendment 17

Proposal for a directive – amending act Recital 21

Text proposed by the Commission

(21) In order to ensure equal conditions of competition within the Community, the use of credits for emission reductions outside the Community to be used by operators within the Community scheme should be harmonised. The Kyoto Protocol to the UNFCCC sets out quantified emission targets for developed countries for the period 2008 to 2012, and provides for the creation of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) from Clean Development Mechanism (CDM) and Joint Implementation projects respectively and their use by developed countries to meet part of these targets. While the Kyoto framework does not enable ERUs to be created from 2013 onwards without new quantified emission targets being in place for host countries, CDM credits can potentially continue to be generated. Additional use of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) should be provided for once there is an international agreement on climate change, from countries which have concluded that

Amendment

(21) In order to ensure equal conditions of competition within the Community, the use of credits for emission reductions outside the Community to be used by operators within the Community scheme should be harmonised. The Kyoto Protocol to the UNFCCC sets out quantified emission targets for developed countries for the period 2008 to 2012, and provides for the creation of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) from Clean Development Mechanism (CDM) and Joint Implementation projects respectively and their use by developed countries to meet part of these targets. While the Kyoto framework does not enable ERUs to be created from 2013 onwards without new quantified emission targets being in place for host countries, CDM credits can potentially continue to be generated. Additional use of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) should be provided for once there is an international agreement on climate change, from countries which have concluded that

agreement. In the absence of such agreement, providing for further use of CERs and ERUs would undermine this incentive and make it more difficult to achieve the objectives of the Community on increasing renewable energy use. The use of CERs and ERUs should be consistent with the goal set by the Community of generating 20% of energy from renewable sources by 2020, and promoting energy efficiency, innovation and technological development. Where it is consistent with achieving these goals, the possibility should be foreseen to conclude agreements with third countries to provide incentives for reductions in emissions in these countries which bring about real, additional reductions in greenhouse gas emissions while stimulating innovation by companies established within the Community and technological development in third countries. Such agreements may be ratified by more than one country. Upon the conclusion by the Community of a satisfactory international agreement, access to credits from projects in third countries should be increased simultaneously with the increase in the level of emission reductions to be achieved through the Community scheme.

agreement. ***CER and ERU projects approved under a future international agreement on climate change should support environmental and social sustainability, demonstrate an environmental benefit, avoid carbon leakage and include a transparent mechanism of validation and verification.***

In the absence of such agreement, providing for further use of CERs and ERUs would undermine this incentive and make it more difficult to achieve the objectives of the Community on increasing renewable energy use. The use of CERs and ERUs should be consistent with the goal set by the Community of generating 20% of energy from renewable sources by 2020, and promoting energy efficiency, innovation and technological development. Where it is consistent with achieving these goals, the possibility should be foreseen to conclude agreements with third countries to provide incentives for reductions in emissions in these countries which bring about real, additional reductions in greenhouse gas emissions while stimulating innovation by companies established within the Community and technological development in third countries. Such agreements may be ratified by more than one country. Upon the conclusion by the Community of a satisfactory international agreement, access to credits from projects in third countries should be increased simultaneously with the increase in the level of emission reductions to be achieved through the Community scheme.

Justification

CDM and JI projects approved following a future international agreement on climate change should be of a high quality and able to demonstrate an environmental and social benefit.

Amendment 18

**Proposal for a directive – amending act
Recital 22**

Text proposed by the Commission

(22) In order to provide predictability, operators should be given certainty about their potential after 2012 to use CERs and ERUs ***up to the remainder of the level which they were allowed to use in the period 2008 to 2012, from project types which were accepted by all Member States in the Community scheme during the period 2008 to 2012.*** As carry-over by Member States of CERs and ERUs held by operators between *commitments* periods under international agreements ('banking' of CERs and ERUs) cannot take place before 2015, and only if Member States choose to allow the banking of those CERs and ERUs within the context of limited rights to bank such credits, this certainty should be given by requiring Member States to allow operators to exchange such CERs and ERUs issued in respect of emission reductions before 2012 for allowances valid from 2013 onwards. However, as Member States should not be obliged to accept CERs and ERUs which it is not certain they will be able to use towards their existing international commitments, this requirement should not extend beyond 31 December 2014. Operators should be given the same certainty concerning such CERs issued from projects that have been established before 2013 in respect of emission reductions from 2013 onwards.

Amendment

(22) ***The Community scheme and other countries' emissions trading systems should facilitate demand for credits from real, verifiable, additional and permanent emission reductions from projects in countries contributing constructively to tackling climate change. Once countries have ratified the international agreement on climate change, such credits from those countries should be acceptable for all emission trading systems.*** In order to provide predictability, operators should be given certainty about their potential after 2012 to use ***high quality*** CERs and ***high quality*** ERUs ***that incentivise the linking of trading systems. Operators should be allowed to use such credits up to an average of 4% of their emissions, during the period from 2013 to 2020, provided they use less than 6,5% of ERUs and CERs compared to their 2005 emissions during each year of the 2008 - 2020 period and they do not carry over entitlements under Article 11a(2) of Directive 2003/87/EC. This system should ensure that over the period 2008 - 2020 up to 40% of the effort can be achieved through the use of CERs and ERUs.*** As carry-over by Member States of CERs and ERUs held by operators between *commitment* periods under international agreements ('banking' of CERs and ERUs) cannot take place before 2015, and only if Member States choose to allow the banking of those CERs and ERUs within the context of limited rights to bank such credits, this certainty should be given by requiring Member States to allow operators to exchange such CERs and ERUs issued in respect of emission reductions before 2012 for allowances valid from 2013 onwards. However, as Member States should not be obliged to accept CERs and

ERUs which it is not certain they will be able to use towards their existing international commitments, this requirement should not extend beyond 31 December 2014. Operators should be given the same certainty concerning such CERs issued from projects that have been established before 2013 in respect of emission reductions from 2013 onwards.

Amendment 19

Proposal for a directive – amending act Recital 23

Text proposed by the Commission

(23) In the event that the conclusion of an international agreement is delayed, the possibility should be foreseen for using credits from high quality projects in the Community trading system through agreements with third countries. Such agreements, which may be bilateral or multilateral, could enable projects to continue to be recognised in the Community scheme that generated ERUs until 2012 but are *not* longer able to do so under the Kyoto framework.

Amendment

(23) In the event that the conclusion of an international agreement is delayed, the possibility should be foreseen for using credits from high quality projects in the Community trading system through agreements with third countries. Such agreements, which may be bilateral or multilateral, could enable projects to continue to be recognised in the Community scheme that generated ERUs until 2012 but are *no* longer able to do so under the Kyoto framework. ***Such projects should support environmental and social sustainability, demonstrate an environmental benefit, avoid carbon leakage and include a transparent mechanism of validation and verification.***

Justification

Projects agreed with third countries in the absence of a future international agreement on climate change should be of high quality and able to demonstrate an environmental and social benefit.

Amendment 20

**Proposal for a directive – amending act
Recital 24**

Text proposed by the Commission

(24) Least Developed Countries are especially vulnerable to the effects of climate change, and are responsible only for a very low level of greenhouse gas emissions. Therefore, particular priority should be given to addressing the needs of Least Developed Countries when revenues generated from auctioning are used to facilitate developing countries' adaptation to the impacts of climate change. Given that very few CDM projects have been established in those countries, it is appropriate to give certainty on the acceptance of credits from projects started there after 2012, even in the absence of an international agreement. This entitlement should apply to Least Developed Countries until 2020 provided that they have by then either ratified a global agreement on climate change or a bilateral or multilateral agreement with the Community.

Amendment

(24) Least Developed Countries are especially vulnerable to the effects of climate change, and are responsible only for a very low level of greenhouse gas emissions. Therefore, particular priority should be given to addressing the needs of Least Developed Countries when revenues generated from auctioning are used to facilitate developing countries' adaptation to the impacts of climate change. Given that very few CDM projects have been established in those countries, it is appropriate to give certainty on the acceptance of credits from projects started there after 2012, even in the absence of an international agreement, ***when these projects are clearly additional and contribute to sustainable development.*** This entitlement should apply to Least Developed Countries until 2020 provided that they have by then either ratified a global agreement on climate change or a bilateral or multilateral agreement with the Community

Amendment 21

**Proposal for a directive – amending act
Recital 25**

Text proposed by the Commission

(25) Once a future international agreement on climate change has been ***reached***, CDM credits from third countries should only be accepted in the Community scheme once those countries have ratified the international agreement.

Amendment

(25) Once a future international agreement on climate change has been ***ratified by the Community, additional credits up to half of the additional reduction taking place in the Community scheme may be used, and high quality*** CDM credits from third countries should only be accepted in the Community scheme once those countries have ratified the international agreement.

Amendment 22

Proposal for a directive – amending act Recital 31 a (new)

Text proposed by the Commission

Amendment

(31a) Third countries neighbouring the Union should be encouraged to join the Community scheme if they comply with this Directive. The Commission should make every effort in negotiations with, and in the provision of financial and technical assistance to, candidate countries and potential candidate countries and countries covered by the European neighbourhood policy to promote this aim. This would facilitate technology and knowledge transfer to these countries, which is an important means of providing economic, environmental and social benefits to all.

Justification

It is vital to encourage third countries bordering the EU to join the EU ETS. This is not only important from an environmental and development point of view, but will also address the issue of carbon leakage by EU companies moving over the border.

Amendment 23

Proposal for a directive – amending act Recital 33

Text proposed by the Commission

Amendment

(33) [As regards the approach to allocation, aviation should be treated as other industries which receive transitional free allocation rather than as electricity generators. ***This means that 80% of allowances should be allocated for free in 2013, and thereafter the free allocation to aviation should decrease each year by equal amounts resulting in no free allocation in 2020.*** The Community and its Member States should continue to seek to

(33) [As regards the approach to allocation, aviation should be treated as other industries which receive transitional free allocation rather than as electricity generators. The Community and its Member States should continue to seek to reach an agreement on global measures to reduce greenhouse gas emissions from aviation and review the situation of this sector as part of the next review of the Community scheme.]

reach an agreement on global measures to reduce greenhouse gas emissions from aviation and review the situation of this sector as part of the next review of the Community scheme.]

Justification

Aviation falls under all other sectors, for which exposure to the risk of carbon leakage needs to be determined, in case no international agreement is reached.

Amendment 24

**Proposal for a directive – amending act
Recital 33 a (new)**

Text proposed by the Commission

Amendment

(33a) It is important that the scheme be extended in the future so as to include other significant emitters of greenhouse gases, especially in the transport sector, such as shipping operators, and possibly also the mining and waste sectors. With that aim in view, the Commission should, as soon as possible, propose appropriate amendments, accompanied by an impact assessment, with a view to incorporating the shipping sector into the Community scheme by 2013 and setting a date for the inclusion of road transport.

Justification

Road transport and shipping should be incorporated into the EU ETS, as should, possibly, the mining and waste sectors.

Amendment 25

**Proposal for a directive – amending act
Recital 33 b (new)**

Text proposed by the Commission

Amendment

(33b) In order to ensure a level playing field on the internal market, the Commission should, if appropriate, issue

guidelines or present proposals with a view to harmonising further the application of this Directive, for example regarding the definitions, charges and penalties.

Justification

To provide more legal certainty and to create a true level playing field in the EU, further harmonization could be envisaged, for example regarding definitions (closure) and fees and penalties put in place by Member States.

Amendment 26

Proposal for a directive – amending act Recital 34

Text proposed by the Commission

(34) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. In particular power should be conferred on the Commission to adopt measures for the auctioning of allowances, for transitional Community-wide allocation of allowances, for the monitoring, reporting and verification of emissions, for the accreditation of verifiers and for implementing harmonised rules for projects. Since those measures are of general scope and are designed to amend non-essential elements of this Directive and to supplement this Directive by the addition or modification of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Amendment

(34) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. In particular power should be conferred on the Commission to adopt measures for the auctioning of allowances, for transitional Community-wide allocation of allowances, for the monitoring, reporting and verification of emissions, ***for the harmonisation of rules on the definition of new entrant***, for the accreditation of verifiers and for implementing harmonised rules for projects. Since those measures are of general scope and are designed to amend non-essential elements of this Directive and to supplement this Directive by the addition or modification of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Amendment 27

Proposal for a directive – amending act Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) Information on the application of this Directive should be easily accessible, in particular for small- and medium-sized enterprises (SMEs). In order to help undertakings, and in particular SMEs, to comply with the requirements of this Directive, Member States should establish national helpdesks.

Justification

Incorporated in the report without vote on the basis of Rule 47. Many of the companies that are covered by the EU ETS are SMEs, that lack sufficient resources and that might be at a disadvantage compared to big companies in acquiring allowances through auctioning and trading. The least that could be done is supplying them with easily accessible information on the detailed requirements. The best practical solution to do so vary from one Member States to the other, depending on the specific institutional framework in place, as was done in the REACH Directive.

Amendment 28

Proposal for a directive – amending act Article 1 – point 1 Directive 2003/87/EC Article 1 - new paragraph

Text proposed by the Commission

Amendment

It also provides for the reductions of greenhouse gas emissions to be increased so as to contribute to the levels of reductions that are considered scientifically necessary to avoid dangerous climate change.

It also provides for the reductions of greenhouse gas emissions to be increased so as to contribute to the levels of reductions that are considered scientifically necessary to avoid dangerous climate change. ***The Community should proceed to implement the 30% reduction below 1990 levels to take effect upon completion of the ratification procedure by the Community of a future international agreement on climate change.***

Amendment 29

Proposal for a directive – amending act

Article 1 – point 2 – point (b)

Directive 2003/87/EC

Article 3 – point (h)

Text proposed by the Commission

(h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emission permit subsequent to the submission to the Commission of the list referred to in Article 11(1);

Amendment

(h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emission permit subsequent to the submission to the Commission of the list referred to in Article 11(1), ***or an update of its greenhouse gas emission permit because of an extension of at least 20% in the installation's capacity or a significant change in its nature and functioning;***

Amendment 30

Proposal for a directive – amending act

Article 1 – point 2 – point (c)

Directive 2003/87/EC

Article 3 – point [(v)] (new)

Text proposed by the Commission

Amendment

[(v)] 'international agreement' means a comprehensive agreement between countries in the context of the UNFCCC which aims at global emissions reductions of the magnitude required to effectively address climate change by limiting global temperature increase to 2°C, entailing, for the EU, commitments to comparable efforts by other developed countries and adequate contributions by economically more advanced developing countries, according to their responsibilities and respective capacities;

Amendment 31

Proposal for a directive – amending act
Article 1 – point 2 a (new)
Directive 2003/87/EC
Article 3 c – paragraph 2

Text proposed by the Commission

Amendment

(2a) Article 3c(2) is replaced by the following:

"2. For 2013, and [...]for each subsequent year, the total quantity of allowances to be allocated to aircraft operators shall decrease from 95% according to the linear reduction factor as defined in Article 9."

Amendment 32

Proposal for a directive – amending act
Article 1 – point 2 b (new)
Directive 2003/87/EC
Article 3 d – paragraph 2

Text proposed by the Commission

Amendment

(2b) Article 3d(2) is replaced by the following:

"2. Subject to Article 10b, the quantity of allowances allocated free of charge under paragraphs 3 to 5 of this Article [and Article 3c(2)] in 2013 shall be 80% of the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020. From 2014, free allocation to aviation operators under this paragraph shall decrease by equal amounts resulting in no free allocation in 2020."

Justification

Corresponds to the agreement of Council and Parliament on including aviation in the Emissions Trading Scheme. The agreement says that the amount of auctioning may be increased as part of the general review. The authors of the amendment referred to this

possibility and support the idea that the European Commission raised in the general review.

Amendment 33

Proposal for a directive – amending act

Article 1 – point 2 a (new)

Directive 2003/87/EC

Article 4

Text proposed by the Commission

Amendment

(2a) Article 4 is replaced by the following:

"Article 4

Greenhouse gas emissions permits

Member States shall ensure that, from 1 January 2005, no installation undertakes any activity listed in Annex I resulting in emissions specified in relation to that activity unless its operator holds a permit issued by a competent authority in accordance with Articles 5 and 6, or the installation is [...] excluded from the Community scheme pursuant to Article 27."

Justification

This is a technical change to Directive 2003/87/EC to an article that was not amended by the Commission's proposal. It clarifies that exemptions granted to small installations under Article 27 will no longer be temporary, but permanent in phase III.

Amendment 34

Proposal for a directive – amending act

Article 1 – point 3

Directive 2003/87/EC

Article 5 – point (d)

Text proposed by the Commission

Amendment

(d) the measures planned to monitor and report emissions in accordance with the

(d) a monitoring plan and other measures that fulfil the requirements under the

Regulation referred to in Article 14.

Regulation referred to in Article 14.

Justification

The monitoring plan is a crucial legal requirement to obtain a GHG permit. It therefore should be mentioned in Article 5 of the EU ETS directive. This plan has to fulfil the requirements of the new monitoring and reporting regulation mentioned in article 14.

Amendment 35

Proposal for a directive – amending act

Article 1 – point 5

Directive 2003/87/EC

Article 9 – paragraph 2

Text proposed by the Commission

The Commission shall, by **30 June 2010**, publish the absolute quantity of allowances for 2013, based on the total quantities of allowances issued by the Member States in accordance with the Commission Decisions on their national allocation plans for the period 2008 to 2012.

Amendment

The Commission shall, by **30 September 2009**, publish the absolute quantity of allowances for 2013, based on the total quantities of allowances issued **or to be issued** by the Member States in accordance with the Commission Decisions on their national allocation plans for the period 2008 to 2012.

Justification

The amount of allowances to be issued by Member States under their national allocation plan for 2008-2012 should be finalised before 2010, so this date can be brought forward.

Amendment 36

Proposal for a directive – amending act

Article 1 – point 5

Directive 2003/87/EC

Article 9 – paragraph 3

Text proposed by the Commission

The Commission shall review the linear factor no later than **2025**.

Amendment

The Commission shall review the linear factor no later than **2020**.

Justification

It is preferable to review the linear factor before the new period starts. By 2020 we will have

new information indicating whether or not it is necessary/feasible to set a more stringent reduction path. There is no point in waiting until 2025.

Amendment 37

Proposal for a directive – amending act

Article 1 – point 6

Directive 2003/87/EC

Article 9a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. In respect of installations which are only included in the Community scheme from 2013 onwards, Member States shall ensure that the operators of such installations **may** submit to the relevant competent authority independently verified emissions data in order for them to be taken into account for the quantity of allowances to be issued.

Amendment

2. In respect of installations which are only included in the Community scheme from 2013 onwards, Member States shall ensure that the operators of such installations submit to the relevant competent authority **duly substantiated and** independently verified emissions data in order for them to be taken into account for the quantity of allowances to be issued.

Justification

It must be mandatory if such data are supposed to be into account for the quantity of allowances to be issued.

Amendment 38

Proposal for a directive – amending act

Article 1 – point 6

Directive 2003/87/EC

Article 9a – paragraph 3

Text proposed by the Commission

3. The Commission shall publish the adjusted quantities referred to in paragraphs 1 and 2.

Amendment

3. The Commission shall publish the adjusted quantities referred to in paragraphs 1 and 2 **by 30 September 2010.**

Justification

This is a to clarify the date by which the Commission must publish the data submitted by Member States relating to installations which have been opted in during Phase II, or included from 2013.

Amendment 39

Proposal for a directive – amending act

Article 1 – point 6

Directive 2003/87/EC

Article 9a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In respect of installations which are excluded from the Community scheme in accordance with Article 27 or due to closure, the total quantity of allowances to be issued from 1 January 2013 shall be adjusted downwards by the total average verified emissions of those installations in 2005 to 2007 minus 21% of those emissions; this amount corresponds to the reductions required of installations under the Community scheme to achieve at least a 20% reduction in greenhouse gas emissions below 1990 levels. When an international agreement on climate change has been concluded, the quantity of allowances that are adjusted downwards under this paragraph shall be decreased to reflect the revised reduction in greenhouse gas emissions below 1990 levels.

Justification

This amendment relates to the amendment to Article 27 which raises the emission threshold to 25,000. This will remove 6300 (rather than 4200) small installations from the administrative burden of the system, but only remove 2.4% of total emissions. An amendment to Article 9a is required to make a corresponding downward adjustment to the overall cap.

Amendment 40

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. ***From*** 2013 ***onwards***, Member States

1. ***For periods commencing*** 2013, Member

shall auction all allowances which are not allocated free of charge in accordance with Article 10a.

States shall auction all allowances which are not allocated free of charge in accordance with Article 10a. ***By 31 December 2010 the Commission shall determine, on the basis of reports submitted and Article 10a(6), and publish the anticipated Community-wide amount of allowances to be auctioned for the period 2013 to 2020.***

Justification

It is critical for the proper functioning of both the ETS and the electricity sector that auctions of allowances for 2013 onwards take place well in advance of 1st January 2013.

Amendment 41

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) 90% of the total quantity of allowances to be auctioned being distributed amongst Member States in shares that are identical to the share of verified emissions under the Community scheme in **2005** of the Member State concerned;

Amendment

(a) 90% of the total quantity of allowances to be auctioned being distributed amongst Member States in shares that are identical to the share of **average** verified emissions under the Community scheme in **2005-2007** of the Member State concerned;

Amendment 42

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 3

Text proposed by the Commission

3. At least **20%** of the revenues generated from the auctioning of allowances referred to in paragraph 2, ***including all revenues from the auctioning referred to in point (b) thereof, should be used for the following:***

Amendment

3. At least **50%** of the revenues generated from the auctioning of allowances referred to in paragraph 2 ***shall be used in a dedicated international fund as follows:***

(a) to reduce greenhouse gas emissions, including by contributing to the Global Energy Efficiency and Renewable Energy Fund, to adapt to the impacts of climate change and to fund research and development for reducing emissions and adapting, including participation in initiatives within the framework of European Strategic Energy Technology Plan;

(b) to develop renewable energies to meet the commitment of the Community to using 20% renewable energies by 2020, and to meet the commitment of the Community to increase energy efficiency by 20% by 2020;

(c) for the capture and geological storage of greenhouse gases, in particular from coal power stations;

(d) for measures to avoid deforestation, in particular in Least Developed Countries;

(e) to facilitate developing countries' adaptation to the impacts of climate change;

(f) to address social aspects in lower and middle income households, for example by increasing their energy efficiency and insulation; and

(g) to cover administrative expenses of the management of the Community scheme.

(a) one quarter for measures to contribute to funds to avoid deforestation and increase afforestation and reforestation in developing countries that have ratified the future international agreement, taking into account:

- the rights and needs of indigenous peoples;

- the preservation of biodiversity; and

- the sustainable use of forest resources;

(b) one quarter to reduce emissions in developing countries that have ratified the future international agreement, and to transfer technology to those countries, e.g. through the Global Energy Efficiency and Renewable Energy Fund;

(c) one half to facilitate adaptation to the adverse effects of climate change in developing countries that have ratified the future international agreement on climate change.

Amendment 43

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Revenues not used under paragraph 3, including all revenues from the auctioning referred to in paragraph 2(b), shall be used to address climate change issues, inter alia:

(a) to reduce greenhouse gas emissions, to adapt to the impacts of climate change and to fund research and development for reducing emissions and adaptation, including participation in initiatives within the framework of the European Strategic Energy Technology Plan and the European Technology Platforms;

(b) to develop renewable energies to meet the commitment of the Community to using 20% renewable energies by 2020;

(c) to meet the commitment of the Community to increase energy efficiency by 20% by 2020;

(d) for the environmentally safe capture and geological storage of greenhouse gases, from coal power stations and a range of industrial sectors and sub-sectors;

(e) to finance research and development in energy efficiency and clean technologies in the sectors covered by the scope of the directive;

(f) for additional measures to avoid deforestation, to promote sustainable afforestation and forest management in Europe and produce and mobilise sustainable biomass in the Community;

(g) to address energy poverty, for example through financial measures to promote increased energy efficiency and

insulation;

(h) to encourage a shift to low emission forms of transport, including modal shift, and to offset the increased cost of power for electric traction in the rail sector;

(i) to cover administrative expenses of the management of the Community scheme; and

(j) for installations for research, innovation and investments in low-carbon technologies, including, inter alia, renewable energy, the capture and geological storage of greenhouse gases and more energy efficient production processes, in proportion to indirect emissions from those installations' use of electricity and in accordance with State Aid rules.

Amendment 44

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 4

Text proposed by the Commission

4. Member States shall include information on the use of revenues for each of **these** purposes in their reports submitted under Decision No 280/2004/EC.

Amendment

4. Member States shall include information on the use of revenues for each of **the** purposes **set out in paragraphs 3 and 3a** in their reports submitted under Decision No 280/2004/EC.

Amendment 45

Proposal for a directive – amending act

Article 1 - Point 7

Directive 2003/87/EC

Article 10 – paragraph 5

Text proposed by the Commission

5. By **31 December 2010**, the Commission

Amendment

5. By **30 September 2010**, the Commission

shall adopt a Regulation on timing, administration and other aspects of auctioning to ensure that it is conducted in an open, transparent and non-discriminatory manner. *Auctions shall be designed to ensure that operators, and in particular any small and medium size enterprises covered by the Community scheme, have full access and any other participants do not undermine the operation of the auction. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].*

shall adopt a Regulation, *in accordance with the regulatory procedure with scrutiny referred to in Article 23(3)*, on timing, administration and other aspects of auctioning to ensure that it is conducted in an open, transparent and non-discriminatory manner. *The auction system shall be so designed as to make for a continuously liquid and transparent market.*

To enable the above objectives to be achieved, the Regulation referred to in the first subparagraph must be based on the following principles:

- a single system must be used, which must be accessible from a distance, effective, available at an acceptable cost, and headed by a single Community-level manager in order to guarantee its integrity;*
- auctions must be made accessible, at minimal cost, to any stakeholder furnishing proof of solvency and holding an open account in the allowances register;*
- the Regulation must lay down a schedule of volumes to be auctioned, consistent with the repayment deadlines applying to allowances and with the cash flow constraints imposed on firms; the schedule must rule out the possibility of a single auction for the whole of the period in question.*

The Regulation shall provide for the market to be supervised by an existing or future organisation, whose tasks shall be similar to those assigned to a commodity market supervisory body.

Justification

The EU must be in a position to invest more in the energy-related and CO₂ emission-reducing technologies necessary in order to pave the way for the CO₂ emission reduction efforts to be undertaken between now and 2050. If the revenue is used at Community level, European research can be properly organised and hence placed on a comparable footing to research in, say, the United States and Japan.

Amendment 46

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 5a (new)

Text proposed by the Commission

Amendment

5a. Member States, in consultation with the Commission, may authorise a common agency or institution to act on their behalf in auctioning allowances. Revenues arising from the auctions carried out by a common agency or institution shall be distributed among Member States in accordance with paragraph 2 as soon as practicable following each auction.

Justification

The total Community-wide quantum of allowances for auction must be determined and reported to allow Member States to calculate the amount of allowances they may auction in accordance with Article 10(2). The complexity and administrative cost of hosting auctions in 27 Member States should be taken into account with regard to the upcoming Commission's Regulation on Auctioning.

Amendment 47

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

1. The Commission shall, by **30 June**

1. The Commission shall, by **30 June**

2011, adopt Community wide and fully-harmonised implementing measures for allocating the allowances referred to in paragraphs 2 to 6 and 8 in a harmonised manner.

2010, adopt Community-wide and fully harmonised implementing measures. for allocating the allowances referred to in paragraphs 2 to 6 and 8 in a harmonised manner..

Justification

No extra clarity is achieved by referring to paragraphs 2 to 6 and 8, as the third sub-paragraph already contains a harmonised benchmark system. The benchmark systems should be decided on by mid-2010, for the sake of planning security. The amendment stresses the use and important characteristics of benchmarks.

Amendment 48

Proposal for a directive – amending act

Article 1 – point 8

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, ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions, **by taking account of** the most efficient techniques, substitutes, alternative production processes, use of biomass and greenhouse gas capture and storage, **and** shall not give incentives to increase emissions. No free allocation shall be made in respect of any electricity production.

Amendment

The measures referred to in the first subparagraph shall, to the extent feasible, ***include the establishment of Community-wide harmonised ex ante sector specific benchmarks to*** ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions. ***They shall be based on*** the most efficient techniques ***and technologies, and take into account the potential, including the technical potential, to reduce emissions,*** substitutes, alternative production processes ***and the*** use of biomass, ***cogeneration*** and greenhouse gas capture, ***use*** and storage.

For each sector, where possible, the benchmark shall be calculated on the final product, and not simply on the inputs, so as to maximise greenhouse gas emissions and energy efficiency savings throughout the production process of the sector concerned.

The abovementioned measures shall not

give incentives to increase emissions *overall or per unit of production. In addition, these harmonised rules shall also take into account emissions related to the use of combustible waste gases including from steel production when the production of these waste gases cannot be avoided in the industrial production process; in this respect the rules shall provide for allowances to be allocated free of charge to operators of installations combusting the waste gases concerned or to operators of the installations where these gases originate.*

No free allocation shall be made in respect of any electricity production, *except for electricity produced either in connection with industrial heat through high efficiency cogeneration as defined in Directive 2004/8/EC or from residues from an industrial process using best available technologies, provided that it is produced for the own consumption of the operators of the installations; all of these shall receive allocation under the same principles as applied to that industrial activity as mentioned in Annex I.*

In defining the principles for setting ex ante benchmarks in individual sectors, the Commission shall consult with the sectors concerned.

Amendment 49

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 4

Text proposed by the Commission

The Commission shall, upon the conclusion by the Community of **an** international agreement on climate change leading to mandatory reductions of greenhouse gas emissions comparable to

Amendment

The Commission shall, upon the conclusion by the Community of **a future** international agreement on climate change leading to mandatory reductions of greenhouse gas emissions comparable to

those of the Community, review those measures to provide that free allocation only takes place where this is fully justified in the light of that agreement.

those of the Community, review those measures to provide that free allocation only takes place where this is fully justified in the light of that agreement.

Justification

Amendment 50

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 2

Text proposed by the Commission

2. Subject to **paragraph 3**, no free allocation shall be given to electricity generators, to installations for the capture, pipelines for the transport or to storage sites for greenhouse gas emissions.

Amendment

2. Subject to **paragraphs 3 and 6b**, no free allocation shall be given to electricity generators, to installations for the capture, pipelines for the transport or to storage sites for greenhouse gas emissions **based on fossil fuels**.

Justification

Co-firing with biomass or -waste at coal-fired power plants is a cost-effective option for increasing the share of renewable energy in Europe. It is essential to ensure that co-firing remains an attractive option together with CCS. To secure investments in CCS it is therefore suggested that it should be possible to be credited for greenhouse gas emissions stored from fuel which is CO₂ neutral and in effect extracts greenhouse gas emission from the atmosphere.

Amendment 51

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 3

Text proposed by the Commission

3. Free allocation **may** be given to **electricity generators in respect of the production of heat through** high efficiency cogeneration as defined by Directive

Amendment

3. Free allocation **shall** be given to **district heating and** high efficiency cogeneration as defined by Directive 2004/8/EC for economically justifiable demand, **in**

2004/8/EC for economically justifiable demand ***to ensure equal treatment with regard to other producers of heat.*** In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 9.

respect of the production of heating or cooling. In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 9.

Amendment 52

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 4

Text proposed by the Commission

4. The maximum amount of allowances that is the basis for calculating allocations to installations which carry out activities in 2013 and received a free allocation in the period 2008 to 2012 shall not exceed, as a proportion of the annual Community-wide total quantity, the percentage of the corresponding emissions in the period 2005 to 2007 that those installations emitted. A correction factor shall be applied where necessary.

Amendment

4. The maximum amount of allowances that is the basis for calculating allocations to installations which carry out activities in 2013 and received a free allocation in the period 2008 to 2012 shall not exceed, as a proportion of the annual Community-wide total quantity, the percentage of the corresponding emissions in the period 2005 to 2007 that those installations emitted. A ***uniform cross-sectoral*** correction factor shall be applied where necessary.

Justification

The Commission proposal might allow some sectors to increase their emissions and pass on the burden of their reduction effort to other sectors. A uniform cross-sectoral correction factor ensures that all sectors participate in emission reduction activity.

Amendment 53

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Subject to the rules on free allocation in this Article, the total amount of

allocations identified in paragraphs 4 and 5 shall be divided between sectors on the basis of their shares of 2005-2007 verified emissions. Each installation within a sector may receive an allocation from the amount attributable to its sector under the measures adopted under paragraph 1.

Justification

The Commission is proposing a bottom-up system for calculating how many free allowances are allocated to each installation: setting a benchmark, seeing how these add up once translated to installations and readjusting them if they overshoot the overall cap. To speed up the process and provide greater predictability to each sector, a top-down system is preferable. The Commission should first divide up the overall cap between sectors based on verified emissions and then set sector benchmarks to determine how many allowances each installation in a sector receives.

Amendment 54

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a - paragraph 6 - subparagraph 3

Text proposed by the Commission

No free allocation shall be made in respect of any electricity production by new entrants.

Amendment

No free allocation shall be made in respect of any electricity production by new entrants, *except for electricity produced either in connection with industrial heat through high efficiency cogeneration as defined in Directive 2004/8/EC or from residues from an industrial process using best available technologies, provided that it is produced for the own consumption of the operators of the installations; all of these shall receive allocation under the same principles as applied to that industrial activity as mentioned in Annex I.*

However, where a waste gas from a production process is used as a fuel all allowances shall be allocated to the operator of the installation generating the waste gas with the same allocation principles as applied to that industrial

activity as mentioned in Annex I.

Amendment 55

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10a – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The Commission shall by 31 December 2010 adopt Community-wide and fully harmonised rules on the definition of new entrant, including on the definition of 'capacity extension of at least 20%' and of a 'significant change in its nature and functioning'.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

Amendment 56

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. Up to a maximum of 500 million allowances in the new entrants reserve shall be awarded to large-scale commercial demonstration projects that are undertaking the capture and geological storage of carbon dioxide in the territory of the EU or in developing countries and countries with economies in transition outside the EU that ratify the future international agreement.

The allowances shall be awarded to projects that provide for the development,

at best value costs and in geographically balanced locations across the EU, of a wide range of carbon capture and storage technologies making use of various geological storage sites. Their award shall be dependent upon the verified avoidance of CO₂ emissions through the use of geological storage.

The Commission shall propose structures and procedures for identifying the projects and awarding allowances. It shall strive to ensure that convincing progress towards letting contracts for the construction of 12 large-scale commercial demonstration projects can be displayed before the meeting of the Conference of the Parties to the UNFCCC to be held in Copenhagen in November 2009.

Justification

The EU must take a lead in the development of carbon capture and storage technology if it is to persuade China and other major coal-using countries to ratify an international agreement to reduce CO₂ emissions substantially. This amendment works within the EU emissions cap to provide an immediate, certain and European financial mechanism to enable the first promoters of CCS projects meet development costs which initially make the technology commercially unviable. It will provide the basis for subsequent negotiations over detail with the Council.

Amendment 57

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 7

Text proposed by the Commission

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be **80%** of the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free

Amendment

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be **85%** of the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free

allocation in 2020.

allocation in 2020. *From 2014, free allocation to aviation operators under Article 3d(2) shall decrease by equal amounts resulting in no free allocation in 2020.*

Amendment 58

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 8

Text proposed by the Commission

8. In 2013 and in each subsequent year up to 2020, installations in sectors which are exposed to a significant risk of carbon leakage shall be allocated allowances free of charge up to 100 percent of the quantity determined in accordance with paragraphs 2 to 6.

Amendment

8. In 2013 and in each subsequent year up to 2020, installations in sectors *or sub-sectors* which are exposed to a significant risk of carbon leakage shall be allocated allowances free of charge up to 100 percent of the quantity determined in accordance with paragraphs 2 to 6. *The percentage shall take into account the extent to which it is possible for individual installations in the sector concerned to reduce emission levels by applying the most efficient techniques and taking into account the unavoidable electricity consumption in the production process.*

Amendment 59

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9

Text proposed by the Commission

9. At the latest by **30 June 2010** and every **3 years** thereafter the Commission shall determine the sectors referred to in paragraph 8.

Amendment

9. At the latest by **31 March 2010** and every **4 years** thereafter the Commission shall determine the sectors referred to in paragraph 8.

The Commission shall consult the sectors and subsectors concerned and other

That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

In the determination referred to in the first subparagraph the Commission shall take into account the extent to which it is possible for the sector or sub-sector concerned to pass on the cost of the required allowances in product prices without significant loss of market share to less carbon efficient installations outside the Community, taking into account the following:

(a) the extent to which auctioning would lead to a substantial increase in production cost;

relevant stakeholders.

That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

In the determination referred to in the first subparagraph the Commission shall take into account the extent to which it is possible ***at Community level*** for the sector or sub-sector concerned to pass on the cost of the required allowances in product prices without significant loss of market share to less carbon efficient installations outside the Community, taking into account the following ***quantitative criteria***:

(a) the extent to which auctioning would lead to a substantial increase in production cost ***calculated as a proportion of Gross Added Value or, where these data are not available to an appropriate level, as a proportion of total production costs***;

(b) known level of imports and exports in the sector or sub-sector concerned;

(c) the market share of the sectors or sub-sectors concerned;

(d) profitability as a potential indicator of long-run investment and/or relocation decisions;

(e) the effect of passing through CO₂ costs on the product prices of the sector or sub-sector concerned; and

(f) the effect of the pass through of the cost of allowances in the electricity price to the sector or sub-sector concerned.

For sectors or sub-sectors that from the quantitative assessment appear at significant risk of carbon leakage, there should be a qualitative assessment to determine whether these sectors or sub-sectors are actually at significant risk, and

to inform decisions to be taken under Article 10b. This should include:

(b) the extent to which it is possible for individual installations in the sector concerned to reduce emission levels for instance on the basis of the most efficient techniques;

(c) market structure, relevant geographic and product **market**, the exposure of the sectors to international competition;

d) the effect of climate change and energy policies implemented, or expected to be implemented outside the EU in the sectors concerned

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the increased carbon price or the impact on the profitability of the installations concerned may *inter alia* be used.

(a) the extent to which it is possible for individual installations in the sector concerned to reduce emission levels for instance on the basis of the most efficient techniques;

(b) an assessment of market structure *(current and projected), the* relevant geographic and product **markets**, **transport costs**, the exposure of the sectors to international competition, **long-term and short-term barriers to trade and factors influencing location decisions (including differentiation in quality of product or level of service by producers in the Community, product standards, the importance of proximity to product and factor markets, and the risks of relocating)**;

(c) the effect of climate change and energy policies implemented, or expected to be implemented outside the EU in the sectors concerned.

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the increased carbon price or the impact on the profitability of the installations concerned may *inter alia* be used.

Amendment 60

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10b

Text proposed by the Commission

Not later than **June 2011**, the Commission

Amendment

Not later than **June 2010**, the Commission

shall, in the light of the outcome of the international negotiations and the extent to which these lead to global greenhouse gas emission reductions, and after consulting with all relevant social partners, submit to the European Parliament and to the Council an analytical report assessing the situation with regard to energy-intensive sectors or sub-sectors that have been determined to be exposed to significant risks of carbon leakage. This shall be accompanied by any appropriate proposals, ***which may include:***

- adjusting the proportion of allowances received free of charge by those sectors or sub-sectors under Article 10a;

- inclusion in the Community scheme of importers of products produced by the sectors or sub-sectors determined in accordance with Article 10a.

Any binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall ***also*** be taken into account when considering what measures are appropriate.

shall, in the light of the outcome of the international negotiations and the extent to which these lead to global greenhouse gas emission reductions, and after consulting with all relevant social partners, submit to the European Parliament and to the Council an analytical report assessing the situation with regard to energy-intensive sectors or sub-sectors that have been determined to be exposed to significant risks of carbon leakage. This shall be accompanied by any appropriate proposals.

Any binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall be taken into account when considering what measures are appropriate.

In the absence of an international agreement and binding sectoral agreements, as specified above, the Commission shall specifically examine, in the abovementioned report, the feasibility of adjusting the proportion of allowances received free of charge by those sectors or sub-sectors under Article 10a, the feasibility of including importers of products produced by the sectors or sub-sectors determined in accordance with Article 10a in the Community scheme or of setting up a Border Adjustment Mechanism.

Amendment 61

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11 – paragraph 1

Text proposed by the Commission

1. Each Member State shall publish and submit to the Commission, by **30 September 2011**, the list of installations covered by this Directive in its territory and any free allocation to each installation in its territory calculated in accordance with the rules referred to in Article 10a(1).

Amendment

1. Each Member State shall publish and submit to the Commission, by **30 June 2011, national implementation measures stating** the list of installations covered by this Directive in its territory and any free allocation to each installation in its territory, **for each year in the period covered**, calculated in accordance with the rules referred to in Article 10a(1).

Justification

The paragraph should clarify that the list contains the annual allocation for each of the years 2013 to 2020.

Amendment 62

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11 – paragraph 1a (new)

Text proposed by the Commission

Amendment

1a. Member States may only issue allowances free of charge under paragraph 2 if the national implementation measures are accepted by the Commission.

Justification

There is a need for the Commission to have a role in approving National Implementation Measures (NIMs) to ensure Member States are applying the rules on free allocation to their installations in a consistent manner.

Amendment 63

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11 - paragraph 2

Text proposed by the Commission

2. By 28 February of each year, the competent authorities shall issue the quantity of allowances that are to be distributed for that year, calculated in accordance with Articles 10 and 10a.

An installation which ceases to operate shall receive no further free allowances.

Amendment

2. By 28 February of each year, the competent authorities shall, ***in accordance with their national implementation measures***, issue the quantity of allowances that are to be distributed for that year, calculated in accordance with Articles 10 and 10a.

An installation which ceases to operate shall receive no further free allowances.

2a. No free allocation shall be given to installations where the Annex I activity at the installation has ceased operating or the capacity of the Annex I activity at the installation has dropped below the thresholds contained in that Annex.

The Commission shall, in the measures adopted under Article 10a(1), include measures for defining installations that partially or temporarily cease to operate. Such installations may continue to receive a free allocation in accordance with the measures on free allocation adopted under Article 10a(1).

Amendment 64

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11a – paragraph 7

Text proposed by the Commission

7. Once an international agreement on climate change has been reached, only CERs from third countries which have ratified ***that*** agreement shall be accepted in the Community scheme.

Amendment

7. From 2013 onwards, only high quality CERs and high quality ERUs that incentivise the linking of trading systems from third countries which have ratified ***the future international agreement on***

climate change shall be accepted in the Community scheme. *In the period 2008 to 2012, allocations in the Community scheme shall be 6,5% less than the emissions in 2005. All operators who, in that period, used a lower percentage of ERUs and CERs compared to their emissions and who do not carry over entitlements under paragraph 2, shall be allowed to use such credits up to 4% of their 2005 emissions each year during the period from 2013 to 2020, as shall new entrants and new sectors. This shall represent up to 40% of the reductions they are required to make during the period from 2008 to 2020.*

High quality CERs and high quality ERUs that incentivise the linking of trading systems are credits which:

(a) represent real, verifiable, additional and permanent emission reductions from projects with clear sustainable development benefits and no significant negative environmental or social impacts;

(b) originate from projects in countries which are contributing appropriately to global emission reductions under a future international agreement which they have ratified; and

(c) are accepted, or are likely to be accepted, in other major emission trading systems, having regard in particular to their likely acceptability in a US federal Emissions Trading System.

Harmonised measures confirming which projects or project types meet these criteria shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).

Amendment 65

Proposal for a directive – amending act

Article 1 - point 9

Directive 2003/87/EC

Article 11a - paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. In order to maintain the environmental integrity of the Community scheme and to ensure that European domestic abatement takes place at the level indicated by the emission reduction targets, a total volume of EU emission allowances (EUA) equal to the volume of CERs, ERUs and equivalent credits that installations are permitted to use shall be cancelled. This volume of EUAs will be subtracted from those that would otherwise have been destined for auctioning.

Justification

It is important to increase cost-efficiency. This is why, in the corresponding amendment, it is proposed to increase the amount of CDM and JI credits. At the same time, it is important to maintain the environmental integrity of the scheme. The amendment mainly intends to replace auctioning by CDM and not to jeopardise the principle of complementarity.

Amendment 66

Proposal for a directive – amending act

Article 1 - point 10 a (new)

Directive 2003/87/EC

Article 12 - paragraphs 1 a and 3 a (new)

Text proposed by the Commission

Amendment

(10a) Article 12 is amended as follows:

(a) the following paragraph 1a is inserted:

"1a. The Commission shall, by 1 September 2009, bring forward appropriate legislative proposals that will ensure that the market for emissions allowances is protected from insider dealing and market manipulation. In particular, the Commission shall consider

whether, for the purpose of this Directive, allowances shall be regarded as financial instruments within the scope of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)¹.

¹ OJ L 96, 12.4.2003, p. 16."

(b) the following paragraph 3a is inserted:

"3a. An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2008/xxx/EC on the geological storage of carbon dioxide."

Justification

The legal nature of allowances on the financial market is unclear. Some countries consider them to be financial instruments whose trading is supervised by the financial service authority, while other countries consider them to be normal commodities and only their derivatives are viewed as financial instruments. It is important to create clarity in order to enhance business confidence and increase transparency. Inside trading and market manipulation could distort the market, reduce its credibility and harm investors' confidence.

Amendment 67

Proposal for a directive – amending act

Article 1 - point 12

Directive 2003/87/EC

Article 14 - paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Regulation may include requirements on the use of automated systems and data exchange formats to harmonise communication on the monitoring plan, the annual emission report and the verification activities between the operator, verifier and competent authorities.

Justification

The use of IT systems will improve the transparency of the monitoring and reporting of emissions under the EU ETS. This will be important for further expansion or linking of the EU ETS with other sectors and ET systems.

Amendment 68

Proposal for a directive – amending act

Article 1 - point 13 a (new)

Directive 2003/87/EC

Article 15 a (new)

Text proposed by the Commission

Amendment

(13a) The following Article 15a is inserted:

"Article 15a

Disclosure of information and professional secrecy

1. Member States and the Commission shall ensure that all decisions and reports relating to the quantity and allocation of allowances and to the monitoring, reporting and verification of emissions are immediately disclosed in a manner ensuring fast access to such information on a non-discriminatory basis.

2. The obligation of professional secrecy shall apply to all persons who work or have worked for the Commission or for Member States' competent authorities and for bodies to which the Commission or Member States' competent authorities may have delegated certain tasks. Information covered by professional secrecy may not be disclosed to any other person or authority except by virtue of the laws, regulations or administrative provisions in place."

Justification

It is vital to ensure the application of rules governing financial instruments with regard to the trading of allowances in order to enhance business confidence and increase transparency.

Publication of market sensitive information by the Commission and Member States should be strictly and clearly regulated.

Amendment 69

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/87/EC

Article 22 – paragraph 1

Text proposed by the Commission

The Commission may amend the Annexes to this Directive, with the exception of ***Annex I***, in the light of the reports provided for in Article 21 and of the experience of the application of this Directive. Annexes IV and V may be amended in order to improve the monitoring, reporting and verification of emissions.

Amendment

The Commission may amend the Annexes to this Directive, with the exception of ***Annexes I, II and IIa***, in the light of the reports provided for in Article 21 and of the experience of the application of this Directive. Annexes IV and V may be amended in order to improve the monitoring, reporting and verification of emissions.

Justification

Annex IIa is a political decision and therefore should be subject to co-decision, not comitology. The inclusion of GHG other than those presently listed in Annex II will cause major market distortions and planning insecurity. New gases in the EU ETS may suddenly change supply or demand of allowances and therefore cause unwelcome sudden price fluctuations.

Amendment 70

Proposal for a directive – amending act

Article 1 - point 17 a (new)

Directive 2003/87/EC

Article 24 - paragraph 1- subparagraph 1

Text proposed by the Commission

Amendment

(17a) In Article 24(1), the first subparagraph 1 is replaced by the following:

"1. From 2008, Member States may apply emission allowance trading in accordance with this Directive to activities, carried out at an installation or

elsewhere, and greenhouse gases which are not listed in Annex I, provided that inclusion of such activities[...] and greenhouse gases is approved by the Commission in accordance with the procedure referred to in Article 23(2), taking into account all relevant criteria, in particular effects on the internal market, potential distortions of competition, the environmental integrity of the scheme and reliability of the planned monitoring and reporting system."

Justification

This is a technical change to Directive 2003/87/EC to a paragraph that was not amended by the Commission's proposal. It ensures that there is flexibility regarding any future opt-ins, such as household heating.

Amendment 71

Proposal for a directive – amending act

Article 1 - point 19

Directive 2003/87/EC

Article 24 a - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Greenhouse gas emissions which are captured and stored shall be considered as “not emitted”. No surrender of allowances shall be required for these emissions.

Justification

These gases are emissions but they do not come into contact with the air. Therefore they should not be considered as emissions.

Amendment 72

Proposal for a directive – amending act

Article 1 – point 20

Directive 2003/87/EC

Article 25 – paragraphs 1a and 1b

Text proposed by the Commission

1a. Agreements may be made to provide for the recognition of allowances between the Community scheme and mandatory greenhouse gas emissions trading systems with absolute emissions caps established in any other country or in sub-federal or regional entities.

1b. Non-binding arrangements may be made with third countries or with sub-federal or **regional entities** to provide for administrative and technical coordination in relation to allowances in the Community scheme or other greenhouse gas emissions trading systems with absolute emissions caps.

Amendment

1a. Agreements may be made to provide for the recognition of allowances between the Community scheme and **comparable** mandatory greenhouse gas emissions trading systems with absolute emissions caps established in any other **region**, country or in sub-federal or **sub-national** entities.

1b. Non-binding arrangements may be made with **regional entities or** third countries or with sub-federal or **sub-national** entities to provide for administrative and technical coordination in relation to allowances in the Community scheme or other greenhouse gas emissions trading systems with absolute emissions caps.

Justification

This clarifies that linking to schemes which are sub-national but not federal will be possible, and that regional entities include supra-national entities.

Amendment 73

Proposal for a directive – amending act

Article 1 - point 20

Directive 2003/87/EC

Article 25 - paragraph 1b a (new)

Text proposed by the Commission

Amendment

1ba. The Commission shall, in the framework of the European Neighbourhood Policy and the enlargement process, seek to conclude agreements with the countries concerned aiming at including them in the Community scheme or providing for the mutual recognition of allowances.

Justification

It is vital to encourage third countries bordering the EU to join the EU ETS. This is not only

important from an environmental and development point of view, but will also address the issue of carbon leakage by EU companies moving over the border.

Amendment 74

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 27 – title and paragraph 1

Text proposed by the Commission

Exclusion of small **combustion** installations subject to equivalent measures

1. Member States may exclude, from the Community scheme, **combustion** installations which have a rated thermal input below **25 MW**, reported emissions to the competent authority of less than **10 000 tonnes** of carbon dioxide equivalent, excluding emissions from biomass, in each of the preceding 3 years, 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 that are in place,

(b) it confirms that monitoring arrangements are in place to assess whether any installation emits **10 000 tonnes** or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year;

(c) it confirms that if any installation emits **10 000 tonnes** or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year or the equivalent measures are no longer in place, the installation will be re-introduced into

Amendment

Exclusion of small installations subject to equivalent measures

1. Member States may, **at the request of the operator**, exclude from the Community scheme installations which have a rated thermal input below **35MW**, reported emissions to the competent authority of less than **25 000 tonnes** of carbon dioxide equivalent, excluding emissions from biomass, in each of the preceding 3 years, 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 that are in place,

(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;

(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 equivalent measures are no longer in place, the installation will be re-introduced into

the system;

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

the system;

(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.

Amendment 75

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 28

Text proposed by the Commission

1. Upon the conclusion by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding the minimum reduction levels agreed upon by the European Council, **paragraphs 2, 3 and 4** shall apply.
2. From the year following the conclusion of the international agreement referred to in paragraph 1, the linear factor shall increase so that the Community quantity of allowances in 2020 is lower than that established pursuant to Article 9, by a quantity of allowances equivalent to the overall reduction of greenhouse gas emissions by the Community below 20% to which the international agreement commits the Community, multiplied by the share of overall greenhouse gas emission reductions in 2020 which the Community scheme is contributing pursuant to Articles 9 and 9a.
3. Operators may use CERs, ERUs or other credits approved in accordance with paragraph 4 from third countries which have concluded the international

Amendment

1. Upon the conclusion by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding the minimum reduction levels agreed upon by the European Council, **paragraphs 2 to 4b** shall apply.
2. From the year following the conclusion of the international agreement referred to in paragraph 1, the linear factor shall increase so that the Community quantity of allowances in 2020 is lower than that established pursuant to Article 9, by a quantity of allowances equivalent to the overall reduction of greenhouse gas emissions by the Community below 20% to which the international agreement commits the Community, **consistent with the European Council conclusions of March 2007**, multiplied by the share of overall greenhouse gas emission reductions in 2020 which the Community scheme is contributing pursuant to Articles 9 and 9a.
3. Operators may use **high quality** CERs, ERUs or other credits approved in accordance with paragraph 4 from third countries which have concluded the

agreement, up to half of the reduction taking place in accordance with paragraph 2.

4. The Commission may adopt measures to provide for the use of additional project types by operators in the Community scheme to those referred to in paragraphs 2 to 5 of Article 11a or the use by such operators of other mechanisms created under the international agreement, as appropriate.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

international agreement, up to half of the reduction taking place in accordance with paragraph 2.

4. The Commission may adopt measures to provide for the use ***and specify the quality*** of additional project types by operators in the Community scheme to those referred to in paragraphs 2 to 5 of Article 11a or the use by such operators of other mechanisms created under the international agreement, as appropriate.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

4a. Within eight months from the conclusion of the international agreement referred to in paragraph 1, the Commission shall carry out and submit to the European Parliament and the Council a comprehensive impact assessment of the effects of achieving the emissions reductions in the EU required by that agreement and the measures taken to achieve those reductions , as well as any other measures adopted in the agreement. This impact assessment shall in particular set out the extent to which the international agreement is likely significantly to reduce the risk of carbon leakage for industries exposed to international competition, including by ensuring comparable burdens on industries operating outside the Community.

4b. If the impact assessment indicates that the international agreement is unlikely significantly to reduce the risk of carbon leakage for industries exposed to international competition, the Commission shall submit an appropriate

legislative proposal to the European Parliament and the Council. This proposal shall, if appropriate, contain the following proposals:

(a) to modify the Community quantity of allowances in 2020, taking into account the overall reduction of greenhouse gas emissions by the Community below 20% to which the international agreement commits the Community, consistent with the European Council conclusions of March 2007;

(b) for the use of CERs, ERUs or other credits by operators in the Community scheme;

(c) to reduce the risk of carbon leakage including, inter alia, any proposals referred to in Article 10a(1), (8) and (9) and Article 10b.

Amendment 76

Proposal for a directive – amending act

Article 1 – point 21 a

Directive 2003/87/EC

Article 28 a (new)

Text proposed by the Commission

Amendment

(21a) The following Article 28a is inserted:

"Article 28a

Use of credits for afforestation, reforestation and forestry

1. Upon ratification of a future international agreement on climate change, Member States shall allow operators of installations to use credits, in accordance with the limit specified in Article 11a(7), up to 5% of the greenhouse gas emission reductions required for the installations covered under this Directive from:

(a) sustainable, verifiable and permanent forestry activities in developing countries with which an agreement has been concluded in accordance with Article 11a(5); and

(b) any sustainable, verifiable and permanent forestry projects in developing countries in compliance with the international agreement referred to in Article 28.

2. The projects set out in points (a) and (b) of paragraph 1 shall meet high quality criteria, to be adopted by the Commission.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)]. "

Amendment 77

Proposal for a directive – amending act

Annex I - point 1

Directive 2003/87/EC

Annex I - point 1

Text proposed by the Commission

1. Installations or parts of installations used for research, development and testing of new products and processes and combustion installations exclusively using biomass are not covered by this Directive.

Amendment

1. Installations or parts of installations used for research, development and testing of new products and processes, ***installations subject to equivalent emissions reduction measures which supply health services and educational activities/establishments,*** and combustion installations exclusively using biomass are not covered by this Directive.

Justification

The Commission impact assessment shows that small emitters such as hospitals and universities will have the same costs, in terms of administrative burdens, as larger emitters. Most hospitals and health facilities receive public funding and have limited resources. It is important for their efforts to reduce carbon emissions to be factored into the equation.

Amendment 78

Proposal for a directive – amending act

Annex 1 – point 3 - point c - point iii

Directive 2003/87/EC

Annex I – point 2 - table - 3rd row of categories of activity

Text proposed by the Commission

(iii) the following paragraphs are added:

"Installations for the manufacture of rock wool or stone wool with a capacity exceeding 20 tonnes per day	Carbon dioxide
Installations for the drying or calcination of gypsum or for the production of plaster boards and other gypsum products, where combustion installations with a rated thermal input exceeding 20 MW are operated.	Carbon dioxide"

Amendment

(iii) the following paragraphs are added:

"Installations for the manufacture of mineral wool insulation material using glass, rock or slag with a melting capacity exceeding 20 tonnes per day	Carbon dioxide
Installations for the drying or calcination of gypsum or for the production of plaster boards and other gypsum products, where combustion installations with a rated thermal input exceeding 20 MW are operated.	Carbon dioxide"

Justification

For technical clarification purposes.

Amendment 79

Proposal for a directive – amending act

Annex I - point 4

Directive 2003/87/EC

Annex I - point 2 - table - new category 1 - row 8 a (new)

Text proposed by the Commission

Amendment

Methane gas (CH₄), occurring at active coal mines and which is either adsorbed onto the internal structure of coal, as free gas within the pore space of coal or as free gas in rock strata adjacent to coal seams, which is released initially as a consequence of coal-mining operations.

Justification

Emissions from this sector account for 7.9% of EU-25 methane emissions, equivalent to 0.7% of EU-25 GHG emissions.

EXPLANATORY STATEMENT

Emissions trading is by no means a novel concept and is certainly not unique to Europe. However, the EU Emissions Trading Scheme (ETS) is unique in that it is the first international trading system for CO₂ emissions. It currently covers over 10,000 installations in the energy and industrial sectors which are collectively responsible for close to half of the EU's emissions of CO₂ and 40% of its total greenhouse gas emissions. It is, therefore, rightly referred to as the cornerstone of the EU's strategy for fighting climate change.

The EU ETS Review is part of the Commission's 'Climate and Renewable Energy Package', which was adopted on the 23 January of this year. The package includes draft proposals on Effort Sharing, Energy from Renewable Sources, Carbon Capture and Storage and a draft proposal on the Review of the EU ETS Directive - a proposal that is very balanced and significantly improves and extends the EU ETS.

This proposal seeks to amend the Directive 2003/87/EC¹ which established the EU ETS. The goal is, for the period beyond 2012, to strengthen, expand and improve the functioning of the ETS as one of the most important and cost-effective tools for achieving the EU's target for reducing greenhouse gas emissions. The mandate for this derives from last year's March 2007 European Council, which called for a reduction in EU emissions of at least 20% by 2020 compared with 1990 levels, and by 30% if other industrialised countries commit to comparable efforts in the framework of a global agreement to combat climate change. The decision to launch negotiations to draw up a 'post-Kyoto agreement' was taken last December at the UN climate change conference in Bali. It is imperative that an agreement at international level be reached at the Conference of Parties meeting in Copenhagen in 2009 in order to tackle this pressing global problem. If Europe is to lead the way then we will have to come up with viable solutions for tackling global climate change and a fully functioning EU ETS will make a major contribution.

The proposal to revise the Directive balances the need for economic efficiency and fairness between sectors and Member States, and will provide for more certainty for industry. It sets out projections for the emission reductions required by the sectors covered by the ETS and increased harmonisation will make the system simpler and more transparent, thereby increasing its attractiveness for other countries and regions to link up to it.

The Rapporteur appreciates the work done by the Commission and is supportive of the general framework of the Commission proposal, as well as the 21% reduction target below 2005 emissions. Upon the conclusion of an international agreement, automatic and predictable adjustments to the cap will be made, reflecting the EU's commitment to increase its reduction target from 21% to 30%. The Rapporteur is also supportive of a single harmonised Cap, as well as the 8-year trading period to 2020 and a linear reduction in the cap to 2025, by which point a review is foreseen.

100% Auctioning for the power sector by 2013 is reasonable given the sector's clear potential to pass on any legitimate costs to the consumer, if necessary. In addition, full auctioning

¹ As amended by the 'Linking Directive' 2004/101/EC.

should be sought for all sectors by 2020 given that it is the most efficient and transparent method of allocating allowances.

However, there are areas where the Rapporteur has incorporated changes in her report.

1. There is a real need for more certainty on the issue of those sectors most affected by Carbon Leakage. European Businesses and investors need to be reassured that in the event of an International Agreement not being reached at COP-15 in 2009, they will not be left to carry the burden, alone.

The Commission will review the situation with sectors and sub sectors subject to international competition and make any necessary proposals by 31 December 2010, 6 months ahead of what was originally foreseen. Those sectors deemed to be at significant risk of carbon leakage could receive up to 100% of allowances free of charge or, a system could be introduced to put those installations at significant risk on an equal footing with those in third countries. However, the Rapporteur believes that it would be detrimental to the chances of international negotiations reaching an international climate agreement, if certain sectors were to be named outright in the proposal. Furthermore, one should not attempt to pre-empt the soon-to-be published findings on the European Commission study on this issue. The Rapporteur has also tightened the definition of what constitutes 'carbon leakage' in order to promote the global environmental benefit.

2. All operators who used a lower percentage of ERUs and CERs compared to their emissions in the 2008-2012 phase and who do not carry over entitlements, shall be allowed to use credits up to 5 % of their emissions each year during the period from 2013 to 2020, as shall new entrants and new sectors. This accounts for almost half of the abatement in the 2013 - 2020 period. Such projects would, furthermore, only be permitted from countries which have ratified the International Agreement on climate change and adhere to qualitative rules. The Rapporteur would like to highlight the need for more stringent criteria by permitting high quality CERs and ERUs only. In the case of a international agreement on climate change being reached, the amount of Jl/CDM credits would be increased over.
3. Global deforestation is taking place at an alarming rate and its serious contribution to CO2 emissions cannot be ignored. For this reason, the Rapporteur has foreseen a substantial amount of the revenues from auctioning to be allocated towards contributing to funds to avoid deforestation, to promote sustainable afforestation and reforestation in countries that have ratified the international agreement on climate change.
4. Shipping has thus far not been included and an impact analysis will be required. Lack of verified emissions data to date seems to be a problem in this regard. The Rapporteur foresees that until shipping is included in the EU ETS, emissions from shipping should be included in the Decision on the effort of Member States to meet the Community's greenhouse gas emission reduction commitments up to 2020.
5. The Rapporteur is aware of the potential of Carbon Capture and Storage (CCS)

technology and sees this as part of the solution to reducing global carbon emissions. Hence, it is proposed that 500 million allowances in the new entrants reserve (NER) shall be reserved to be given to the first 12 facilities, which have begun to commercially capture and geologically store carbon dioxide emissions .

6. Auctioning should be the basic principle for allocation of allowances, and should be applied to the power sector from 2013. Where producers of heating or cooling receive a free allocation in respect of the production of industrial heat through high efficiency cogeneration as defined by Directive 2004/8/EC, free allocation shall also be given to electricity generation from residues from an industrial process using best available technologies provided that it is produced for own consumption of the installations.

The Rapporteur believes that to date, politicians have failed miserably to respond adequately to the climate challenge and the 2C° target laid out so clearly in the peer reviewed scientific literature, the IPCC reports and in the Stern Review amongst others. This time we cannot be found wanting - our children, their children, depend on us.

ANNEX - LIST OF SUBMISSIONS BY STAKEHOLDERS¹

Organisation
ACFCI
Aer Lingus
AFEP
Air Products
Alcoa Europe
ALSTOM
Arcelor Mittal
Arkema
Association of European Airlines
ATILH
Aughinish Alumina
Austrian Perm Rep - WKO
Australian Embassy and Mission
Australian Department of Foreign Affairs and Trade
AvA
Avisa
BASF
Bayer
BDI/BDA
Belgian DG Energy & Environment
Belgian Permanent Representation
Bellona Europa
Bloomberg
Blue Next
Bord na Mona
British Petroleum
Business Europe
Bundeskanzleramt Oesterreich
Burson-Marsteller
bvek
Caisse des Depots
CAN Europe
Carbon Markets Association
CE
CEFIC

¹ *The list is not exhaustive*

Cembureau
CEMEX
centrica
Center for Clean Air Policy
CEPI
CEPS
CES ETUC
CGEMP - Paris University
Climate Change Capital
Clogrennane Lime Ltd
COGEN Europe
Coillte
Committee for European Integration - Poland
ConocoPhillips
Covington & Burling
CPA
Creatieve Energie
Cumerio / NA
Danish Permanent Representation
Deutsche Bank
DEFRA
DOW
E3G
EACI
EAMA Energy
Ecologic
Eco Securities
EEB
EESC
EFIEES
Electrabel Suez
Embassy of Norway to the EU
Emirates
Environmental Defense
EON
EPF
Euroheat and Power
European Commission - DG Enterprise & Industry
European Commission - DG Environment
European Environment Agency

European Regions Airline Association
EuLA
Eurelectric
Euro Alliages
EUROFER
Eurogypsum
Eurometaux
European Climate Foundation
European Confederation of Woodworking industries
European Investment Bank
Europia
Eustafor
EXCA
Finnish Perm Rep
Fleishman Hillard
Fortum
French Ministry of Ecology, Sustainable Development and Town and Country Planning
French Permanent Representation to the EU
GCP
GE
German Foreign Office
German Ministry for the Environment, Nature conservation & Nuclear safety
German Perm Rep
Grian
Harvard University
Hill & Knowlton
Hogan & Hartson Raue
Hydro
IACA
IATA
Icelandic Mission to the EU
ICOS
IDDRI
IEA
IETA
IFIEC Europe
IMA Europe
Icelandic Ministry for the Environment
Institute for European Environmental Policy

Irish Dairy Industries Association
Irish Min. Agriculture, Food & Rural Development
Permanent Representation of Ireland to the EU
Italcementi
Italian Dept. for EU affairs
Italian Min. for Environment, Land & Sea
JC - Consulting attorney / Emissions trading
JP Morgan
Kashue
Kevin Leydon & Associates
Lazio Regional Representation - EU Affairs
Ludwig-Maximilian Universitaet Muenchen
McKinsey & Company
NERA
OCIMF
Öko-Institut
Oxfam
Permanent Mission of the Kingdom of the Netherlands to the EU
Premier Periclase
Probiotec
PT Management Consultants
RHI
Rhodia
Rio Tinto
RWE
SFM (UK)
Shell
Slovenian Perm Rep
Smurfit Kappa Group
Sol Group
Solomon Associates
Svensk Energi
Swedish Energy Agency
Swedish Ministry of Environment
Suez
The Brattle Group
The Ecofin Research Foundation
Thyssen Krupp
Transatlantic Policy Network
University College Dublin
University of Cambridge - Electricity Policy Research Group

Universite Paris Dauphine
US House of Representatives
VIK
Vrom
Weber Shandwick
Wietersdorfer Gruppe
WKO
World Bank
World Resources Institute
WRI
WWF
Xstrata

15.9.2008

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY (*)

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community
(COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))

Rapporteur (*): Lena Ek

(*) Associated committee – Rule 47 of the Rules of Procedure

SHORT JUSTIFICATION

Addressing climate change and the transition to a low carbon society is a key global priority. This is reflected by the fact that Parliament has established a dedicated Temporary Committee on Climate Change. Based on the conclusions of the 2007 Spring Council and previous resolutions from Parliament, the Commission presented in January 2008 a very ambitious package that will achieve reductions in EU greenhouse gas emissions of at least a 20% by 2020, increasing to 30% in case of a comprehensive international agreement. This quantum leap in Europe's policy making provides a crystal clear signal to other countries that the EU is seriously committed to fighting climate change.

The EU Emissions Trading Scheme (EU ETS), launched in 2005, is the world's largest cap-and-trade scheme, covering ten thousands of operators. It is the cornerstone of the EU's approach to climate change. It is also a major economic driver. Many companies covered by the EU ETS view it as one of the key issues in their long-term decision making, with a strong to medium impact on decisions to develop innovative technologies.¹ Financial institutions increasingly see the EU ETS as a serious, working and important market.

The first two phases of EU ETS have proven that a viable internal market in emissions allowances is capable of putting a price on carbon. However, they were not without problems. The dependence of the scheme on national allocation plans led to a plunging of the price for CO₂ due to over allocation by Member States, unjustifiable windfall profits for many power generators, unfair competition within the EU caused by differences in national allocations and uncertainty for market players. These problems have been addressed in a comprehensive

¹ Review of EU Emissions Trading Scheme - Survey Highlights, McKinsey, 2005

review of the EU ETS that was undertaken against the backdrop of international negotiations for a post-Kyoto agreement. In January 2008, the Commission published a proposal for a revised EU ETS

Your draftsman welcomes the proposed revision of the EU ETS. Firstly, by introducing a single EU-wide cap on the total number of emission allowances (including a single new entrants reserve), harmonizing the allocation method (in principal auctioning - for non-power generating sectors a gradual phase-out of free allocation) and setting key definitions (such as on combustion installation), the proposal will lead to an increased harmonisation and a better level playing field. Secondly, the scheme's predictability will be enhanced by setting a longer allocation period and steady, predictable reductions in the level of the cap. Thirdly, by expanding the scope to cover new industries (e.g. aluminium and ammonia producers) and new gases (nitrous oxide and perfluorocarbons), more opportunities will be created to find cost effective ways to reduce emissions. Finally, the proposal will reduce the administrative burden (especially on SMEs) by creating an opt-out for small installations.

However, in order to further strengthen the proposal and make the scheme even more workable and effective, several elements should be changed. The aim of most of these changes is to reduce the uncertainty and enhance the predictability of the scheme. This is vital from an environmental point of view, since uncertainty is detrimental for the planning of future investments which could lead to emission reductions - e.g. through energy efficiency or through the renewal of old capacity.

Rewarding most efficient operators

Energy efficiency is a cornerstone of efforts to achieve a low carbon society. Therefore, where allowances will be allocated for free, it is important not to allocate them on an historical basis (in fact supporting incumbents), but on the basis of Best Available Practices / Best Available Technologies. By allocating the allowances on the basis of the most efficient benchmark(s), the scheme will reward energy efficient companies that have invested in environmental friendly production processes. It is critical for industry to work together to establish those benchmarks as soon as possible, since where no harmonised benchmark exists, no free allocation should be made. Energy efficiency is the most cost effective and immediately available tool for reducing emissions, as well as for enhancing security of energy supply and competitiveness. A range of energy efficiency technologies already exist and can be introduced with short lead times. In the future the EU ETS could be linked to a harmonised 'white certificates'-scheme, that promotes energy savings and energy efficiency. It is important that the Commission properly considers these possibilities.

Auction revenues

It has been estimated that the revenues from the auctioning of allowances will amount at least € 33 billion per year (assuming only auctioning for the power generation sector and a relatively modest CO₂ price)¹. In the proposal these revenues will go to the budgets of Member States, with a 'moral obligation' on them to earmark a share of them to tackle climate change in a broad sense. However, this is not strong enough and could lead for the revenues to "disappear" in the national budget. That would be a missed opportunity to use this money

¹ "Does the EU have sufficient resources to meet its objectives on energy policy and climate change". Policy Department on Budgetary Affairs, European Parliament, 2008.

for emission reductions and support for the developing world, preferably at an EU level.

Insider information and market manipulation

In an average week, more than 10 million allowances are traded, resulting in a market worth several billion Euros. The legal nature of these allowances is however unclear. Some countries consider them to be financial instruments whose trading is supervised by the financial service authority, while other countries consider them to be normal commodities and only their derivatives are viewed as financial instruments.¹ In order to avoid market manipulation and inside trading, it is important to consider how to apply the rules for financial markets to emission allowances. By applying similar rules, price formation in the market will be based more on market relevant information and less on anti-competitive speculation, for example by hedge funds or sovereign wealth funds. Furthermore, publication of market sensitive information by the Commission and Member States should be strictly and clearly regulated, since the release of market sensitive data has potentially huge financial consequences. The same rules should apply to those regarding stock market sensitive information.

Carbon leakage

As long as a global framework is not in place yet, an emissions reduction regime which is too burdensome could lead to companies moving their production outside the EU. This would not only have economic and social consequences, but it would also undermine environmental goals - since these companies would no longer be subject to the same emissions controls. The Commission acknowledges this problem, but postpones the solution: By 2010 the sectors that are vulnerable to carbon leakage will be identified and by 2011 the Commission will propose possible measures to prevent it (100% free allocation of allowances and/or coverage of imports under the EU ETS). Furthermore, the list of vulnerable sectors will be reviewed every 3 years. Your draftswoman clearly prefers a global agreement, which will cover all relevant companies and sector. In the event that this goal will not be reached, global sectoral agreements (with objective, verifiable emission reduction goals) would be a 'second best' option. However, in case both options do not materialise, the EU needs to have in place a mechanism that will provide the necessary certainty and predictability needed for long term investments and the renewal of asset portfolios in these sectors. Keeping in mind that the scheme will start operating in 2013, companies and investors need earlier and longer term certainty about how many allowances each sector will get. On the other hand, international negotiations could be unnecessarily impeded if the EU specifies now which sectors will be protected through free allowances. The best way to ensure greater certainty for market players without compromising the international negotiations is to speed up the Commission's timing and lengthen the period between reviews, whilst ensuring that no announcements are made before the expected conclusion of international negotiations in December 2009.

SMEs and administrative burden

It is to the benefit of SMEs to take the lead and invest in low carbon technology. However, the precise regulatory environment needs to take into account their particular situation. The proposal allows small combustion installations (below 25MW) to be excluded from the scheme if equivalent measures are in place. This threshold is rather low. One third of the total combustion installations that are covered by the scheme is relatively small (below 50MW),

¹ Application of the Emissions Trading Directive by EU Member States, European Environment Agency, 2008.

but together they account for only 2% of the overall emissions reported.¹ It seems therefore to be cost effective to raise the threshold for small installations (for example to the threshold of the IPPC) to opt-out from the scheme.

Further harmonization

To provide more legal certainty and to create a true level playing field in the EU, further harmonization should be envisaged. That is the case for definitions (for example for closure), but also for fees/charges and fines/penalties. For example, the maximum fines for similar infringements deviate substantially between Member States: from € 600 to € 15 million.

International aspects

The EU ETS should constitute the first step towards a global system for emissions trading. Therefore, it is vital to make it possible to link other trading schemes to the EU ETS and - making use of all possible Community instruments - to encourage third countries bordering the EU to join the EU ETS. For developing countries, the EU must seize the opportunities offered by the EU ETS to assist these countries in becoming carbon neutral by making the necessary investments and through knowledge transfer.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive – amending act

Recital 2

Text proposed by the Commission

(2) The ultimate objective of the United Nations Framework Convention on Climate Change, which was approved on behalf of the European Community by Council Decision 94/69/EC of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change (UNFCCC), is to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate

Amendment

(2) The ultimate objective of the United Nations Framework Convention on Climate Change, which was approved on behalf of the European Community by Council Decision 94/69/EC of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change (UNFCCC), is to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate

¹ idem, p. 7.

system. In order to meet that objective, the overall global annual mean surface temperature increase should not exceed 2°C above pre-industrial levels. The latest Intergovernmental Panel on Climate Change Assessment (IPCC) report shows that, in order to reach that objective, global emissions of greenhouse gases must peak by 2020. This implies the increasing of efforts by the Community and the quick involvement of developed countries and **encouraging** the participation of developing countries in the emission reduction process.

system. In order to meet that objective, the overall global annual mean surface temperature increase should not exceed 2°C above pre-industrial levels. The latest Intergovernmental Panel on Climate Change Assessment (IPCC) report shows that, in order to reach that objective, global emissions of greenhouse gases must peak by 2020. This implies the increasing of efforts by the Community and the quick involvement of developed **and newly industrialised** countries and the participation of developing countries in the emission reduction process.

Justification

In view of the ever increasing share of newly industrialised countries' emissions, it is necessary to set the aim of ensuring their participation, not only the aim to encourage them to do so. It is necessary to set the aim of ensuring the participation developing countries, not only the aim to encourage them to do so.

Amendment 2

Proposal for a directive – amending act Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) In its resolution of 31 January 2008 on the outcome of the Bali Conference on Climate Change (COP 13 and COP/MOP 3) the European Parliament recalled its position that industrialised countries should commit to reducing their greenhouse gas emissions by at least 30% by 2020 and by 60-80% by 2050, compared to 1990 figures. Given that it anticipates a positive outcome to the COP 15 negotiations to be held in Copenhagen in 2009, the European Union should begin to prepare tougher emissions reduction targets for 2020 and beyond and should seek to ensure that, after 2013, the Community scheme allows, if necessary, for more stringent emissions caps, as part of the Union's contribution to a new

international agreement.

Justification

It is important to stress Parliament's strong ambitions with regard to fighting climate change. The best way to accomplish this is through an international agreement, to be reached in Copenhagen by end 2009. This proposal should be seen as a proof of EU's strong commitment in this respect, but also as a signal that the EU is preparing for the tighter targets that will come with the new agreement.

Amendment 3

Proposal for a directive – amending act
Recital 4

Text proposed by the Commission

(4) In order to contribute to achieving those long-term objectives, it is appropriate to set out a predictable path according to which the emissions of installations covered by the Community scheme should be reduced. To achieve cost-effectively the commitment of the Community to at least a 20% reduction in greenhouse gas emissions below **1990 levels**, emission allowances allocated in respect of those installations should be 21% below their 2005 emission levels by 2020.

Amendment

(4) In order to contribute to achieving those long-term objectives, it is appropriate to set out a predictable path according to which the emissions of installations covered by the Community scheme should be reduced. To achieve cost-effectively the commitment of the Community to at least a 20% reduction in greenhouse gas emissions below **levels in the internationally recognised Kyoto reference year of 1990**, emission allowances allocated in respect of those installations should be 21% below their 2005 emission levels by 2020.

Justification

On this calculation the total permitted emission level would amount to 4.65 billion tonnes by applying a reduction of 20% below 1990. By 2020, reductions of 2.67 billion tonnes are to be achieved by sectors not included in the ETS. The calculation also shows – contrary to the Commission's assertion – that the sectors covered by the ETS must be required to make a 15% reduction compared with 2005.

Amendment 4

Proposal for a directive – amending act
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Standing trees, as well as wood and its derivatives, represent a very important source of carbon sequestration and storage. In addition, timber makes it possible to combat the greenhouse effect by replacing fossil energy. In conclusion, forests represent genuine natural carbon reservoirs, but this carbon is released into the atmosphere when forests are uprooted and burned, hence the importance of introducing forestry protection mechanisms in order to mitigate global warming.

Justification

Change in land use (e.g. deforestation in tropical areas) is said to be responsible for 20% of global greenhouse gas emissions. Annual greenhouse gas emissions linked to deforestation alone amount to 6 billion tonnes of CO₂ equivalent.

In France alone, storage represents 15.6 million tonnes of carbon and traps 10% of greenhouse gas emissions. The replacement value is estimated at 14 million tonnes of carbon. Without forests and timber, France would emit 108 million tonnes more carbon, in other words 20% extra.

Amendment 5

Proposal for a directive – amending act
Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) Given the significant potential of the forestry sector to mitigate global warming, incentives should be introduced to upgrade and develop it, with due regard to the other functions fulfilled by forests.

Justification

The IPCC 2007 report states, ‘in the long term, a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual

sustained yield of timber, fibre or energy from the forest, will generate the largest sustained mitigation benefit'. Account should also be taken of the European Parliament's resolution of 15 November 2007, which calls on the Commission to include certain forestry-related activities in the ETS.

Amendment 6

Proposal for a directive – amending act Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Directive 2003/87/EC and its amending Directive 2004/101/EC should be brought into line with the measures provided for by the Kyoto Protocol concerning activities related to land use, land use change and forestry (LULUCF).

Justification

The Kyoto Protocol assigns statistical targets for greenhouse gas emissions to the industrialised countries listed in Annex B. Several articles refer to LULUCF activities, namely afforestation, reforestation, deforestation, forestry management, agricultural land management, pasture management and revegetation.

Amendment 7

Proposal for a directive – amending act Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) The Community scheme should be fully linked with the Kyoto Protocol project-based mechanisms by including LULUCF activities within the scope of Directives 2003/87/EC and 2004/101/EC.

Justification

Directive 2004/101/EC of 27 October 2004 amending Directive 2003/87/EC excludes from its scope activities related to forestry and agriculture.

The forestry industry and several environmental organisations support the inclusion of LULUCF activities within the EU ETS. They stress the crucial impact of these activities on

climate change, pointing out that deforestation is actually responsible for 20% of global greenhouse gas emissions. Including these activities would also be a way of promoting sustainable development in the non-industrialised countries.

Amendment 8

Proposal for a directive – amending act Recital 8 c (new)

Text proposed by the Commission

Amendment

(8c) The Commission should consider arrangements for including LULUCF activities within the scope of Directives 2003/87/EC and 2004/101/EC, in the light of technical progress and the proposals put forward at the Bali Conference. It should submit a legislative proposal on the matter to the European Parliament and the Council by the end of 2008 at the latest.

Justification

Some Member States have criticised the Commission for failing to provide proper justification of its decision to exclude LULUCF activities and regret this decision, bearing in mind that the conclusions of the European Council of 9 March 2007 and the European Parliament resolution of 15 November 2007 on the Bali Climate Conference called on the Commission to consider including LULUCF activities in the EU ETS. Including these activities in the developing countries would represent a not inconsiderable source of finance, capable of ensuring biodiversity protection and rehabilitation of damaged forests.

Amendment 9

Proposal for a directive – amending act Recital 10

Text proposed by the Commission

Amendment

(10) Where equivalent measures to reduce greenhouse gas emissions, in particular taxation, are in place for small installations whose emissions do not exceed a threshold of **10 000 tonnes** of CO₂ per year, there should be a procedure for enabling Member States to exclude such small

(10) Where equivalent measures to reduce greenhouse gas emissions, in particular taxation, are in place for small installations whose emissions do not exceed a threshold of **25 000 tonnes** of CO₂ per year, there should be a procedure for enabling Member States to exclude such small

installations from the emissions trading system for so long as those measures are applied. This threshold *relatively* offers the maximum gain in terms of reduction of administrative costs for each tonne excluded from the system, for reasons of administrative simplicity. As a consequence of the move from five-year allocation periods, and in order to increase certainty and predictability, provisions should be set on the frequency of revision of greenhouse gas emission permits.

installations from the emissions trading system for so long as those measures are applied, ***albeit that such installations should be allowed to remain voluntarily within the Community scheme.*** This threshold offers the maximum gain in terms of reduction of administrative costs for each tonne excluded from the system, for reasons of administrative simplicity. ***When this Directive is reviewed, consideration should be given to altering this threshold, taking into account the contribution of small installations to total emissions, the weight of the administrative burden and experience gained in introducing equivalent measures.*** As a consequence of the move from five-year allocation periods, and in order to increase certainty and predictability, provisions should be set on the frequency of revision of greenhouse gas emission permits.

Justification

It is important to keep searching for possibilities to further reduce the administrative burden on SMEs, avoid unnecessary administrative costs and bureaucracy and enhance the efficiency of the system. At the moment, one third of the total installations that are covered by the scheme are small installations that together account for only 2% of the overall emissions reported.

Amendment 10

Proposal for a directive – amending act Recital 13

Text proposed by the Commission

(13) The additional effort to be made by the European economy requires inter alia that the revised Community scheme operate with the highest possible degree of economic efficiency and on the basis of fully harmonised conditions of allocation within the Community. Auctioning ***should*** therefore be the basic principle for allocation, as it is the simplest and

Amendment

(13) The additional effort to be made by the European economy requires inter alia that the revised Community scheme operate with the highest possible degree of economic efficiency and on the basis of fully harmonised conditions of allocation within the Community. Auctioning ***will*** therefore be the basic principle for allocation, as it is the simplest and

generally considered to be the most economically efficient system. This should also eliminate windfall profits and put new entrants and *higher than average* growing economies on the same competitive footing as existing installations.

generally considered to be the most economically efficient system. This should also eliminate windfall profits and put new entrants and *fast* growing economies on the same competitive footing as existing installations. ***The Commission should monitor auctioning and the subsequent functioning of the carbon market to ensure that these two objectives are being achieved. To ensure a common and consistent approach to auctioning throughout the Union, auctioning should be administered by the Commission or a competent authority designated by the Commission. This would also ensure that auction revenues can be pooled and used more efficiently and effectively.***

Justification

In order to minimise uncertainty for business, move further towards harmonisation and maximise efficiencies, auctioning should be administered centrally. In addition, the Commission should monitor the impact of auctioning, to ensure that it is delivering the benefits promised.

Amendment 11

Proposal for a directive – amending act Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) In order to ensure an orderly functioning of the carbon and electricity markets, the auctioning of allowances for the period from 2013 onwards should start by 2011 at the latest and be based on clear and objective principles defined well in advance.

Justification

It is essential that the carbon market functions timely, effectively and with sufficient liquidity in order to support the efficient operation of the electricity market. Since this market is characterized by forward contracts, the actual auctioning should start to take place well in advance of the period. Furthermore, the auctioning principles and detailed design provisions should be publicized well in advance in order to allow companies to optimise bid strategies.

Amendment 12

Proposal for a directive – amending act Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The Commission should continue to investigate other means of promoting the most emission-efficient and energy-efficient practices in sectors covered by the Community scheme, as well as in other sectors. In particular, it should investigate by September 2009 the potential for developing an EU-wide system of white certificates, which would reward energy-efficient investments.

Justification

In Article 4(5) Directive 2006/32/EC on end-use efficiency and energy services the Commission are required to examine whether to bring forward a proposal on white certificates based on the first three years of application of the Directive. But no firm date is set for the conclusion of this important examination. The 'Euro White Cert' Project is currently examining the potential for an EU-wide system of White Certificates, and its potential links with EU ETS.

Amendment 13

Proposal for a directive – amending act Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) No undue distortion of competition should be created between installations whether they are externalised or not.

Justification

Any distortion in the internal market caused by allocation of allowances which would result in a shift in production from externalised installations to internalised installations with the consequence of increased CO₂ emissions should be avoided. The purpose of the EU ETS is to reduce the emissions of greenhouse gases and the disruption of current production methods of outsourcing in an energy efficient manner could have a perverse effect.

Amendment 14

Proposal for a directive – amending act Recital 29 a (new)

Text proposed by the Commission

Amendment

(29a) In order to improve transparency and to prevent market abuses, including damaging speculation action in the trading of allowances and their derivatives, the Commission should consider the application of Community rules relating to financial instruments to emissions trading, as well as the publication of any market sensitive information that could influence such trading. The Commission should continue to monitor the development of the carbon market to ensure that the Community scheme continues to achieve its primary purpose of reducing greenhouse gas emissions in a cost effective and economically efficient manner.

Justification

It is vital to ensure the application of rules governing financial instruments with regard to the trading of allowances in order to enhance business confidence and increase transparency. Inside trading and market manipulation could not only distort the market, but also reduce its credibility and investors' confidence, leading to wrong price signals and market illiquidity. Furthermore, by defining allowances as financial instruments, their trading will fall under the supervision of the financial authorities and rules governing for example investment funds would apply to them.

Amendment 15

Proposal for a directive – amending act Recital 31 a (new)

Text proposed by the Commission

Amendment

(31a) Third countries neighbouring the Union should be encouraged to join the Community scheme if they comply with

this Directive. The Commission should make every effort in negotiations with and in the provision of financial and technical assistance to candidate countries and potential candidate countries and countries covered by the European neighbourhood policy to promote this aim. This would facilitate technology and knowledge transfer to these countries, which is an important means of providing economic, environmental and social benefits to all.

Justification

It is vital to encourage third countries bordering the EU to join the EU ETS. This is not only important from an environmental and development point of view, but will also address the issue of carbon leakage by EU companies moving over the border.

Amendment 16

**Proposal for a directive – amending act
Recital 33 a (new)**

Text proposed by the Commission

Amendment

(33a) It is important that the Community scheme be extended in the future so as to include other significant emitters of greenhouse gases, especially in the transport sector, such as shipping operators. To that aim, the Commission should, as soon as possible, propose appropriate amendments, accompanied by an impact assessment, with a view to incorporating the shipping sector within the Community scheme by 2013 and setting a date for the inclusion of road transport.

Justification

It is important to continue with the inclusion of transport into the EU ETS, especially shipping. For the moment, a proper impact assessment and reliable data are missing. However, in the next review, the Commission should extend the scheme.

Amendment 17

Proposal for a directive – amending act Recital 33 b (new)

Text proposed by the Commission

Amendment

(33b) In order to ensure a level playing field on the internal market, the Commission should, if appropriate, issue guidelines or present proposals with a view to harmonising further the application of this Directive, such as the definitions, charges and penalties.

Justification

To provide more legal certainty and to create a true level playing field in the EU, further harmonization could be envisaged, for example regarding definitions (closure) and fees and penalties put in place by Member States.

Amendment 18

Proposal for a directive – amending act Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) Information on the application of this Directive should be easily accessible, in particular for small- and medium-sized enterprises (SMEs). In order to help undertakings, and in particular SMEs, to comply with the requirements of this Directive, Member States should establish national helpdesks.

Justification

Many of the companies that are covered by the EU ETS are SMEs, that lack sufficient resources and that might be at a disadvantage compared to big companies in acquiring allowances through auctioning and trading. The least that could be done is supplying them with easily accessible information on the detailed requirements. The best practical solution to do so vary from one Member States to the other, depending on the specific institutional framework in place, as was done in the REACH Directive.

Amendment 19

Proposal for a directive – amending act

Article 1 – point -1 (new)

Directive 2003/87/EC

Article 1

Text proposed by the Commission

Amendment

(-1) Article 1 shall be replaced by the following:

"This Directive establishes a scheme for greenhouse gas emission allowance trading within the Community (hereinafter referred to as the 'Community scheme') in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner while promoting innovation and maintaining and improving competitiveness."

Justification

The ETS should lead to low-carbon innovations that give EU companies a long-term advantage over competitors outside the EU. Where the ETS leads to the risk of carbon leakage the competitiveness of EU companies should be maintained.

Amendment 20

Proposal for a directive – amending act

Article 1 - point 2 - point a

Directive 2003/87/EC

Article 3 - point c

Text proposed by the Commission

Amendment

(c) 'greenhouse gases' means the gases listed in Annex II and other gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation;

(c) 'greenhouse gases' means the gases listed in Annex II and any other gases which are regulated as such within the framework of an international agreement;

Amendment 21

Proposal for a directive – amending act

Article 1 - point 2 - point b

Directive 2003/87/EC

Article 3 - point h

Text proposed by the Commission

(h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emission permit subsequent to the submission to the Commission of the list referred to in Article 11(1);

Amendment

(h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emission permit ***or an update of its greenhouse gas emissions permit due to a change in its nature or functioning, or a significant capacity increase***, subsequent to the submission to the Commission of the list referred to in Article 11(1);

Amendment 22

Proposal for a directive – amending act

Article 1 – point 2 – point c

Directive 2003/87/EC

Article 3 – point u

Text proposed by the Commission

(u) 'Electricity generator' means an installation that, on or after 1 January 2005, has produced electricity for sale to third parties, and which is only covered by the category 'Supply of power or heat' in Annex I.

Amendment

(u) 'Electricity generator' means an installation that, on or after 1 January 2005, has produced electricity for sale to third parties, ***which predominantly delivers to the public electricity grids***, and which is only covered by the category 'Supply of power or heat' in Annex I.

Justification

The exposure to international competition forces to include autoproducers to free allocation. Industry other than public electricity producers must remain the possibility to run their own energy facilities already invested. Therefore the definition should be amended. Autoproducers, as defined in the Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity as “a natural or legal person generating electricity essentially for his own use” should not be excluded from free allocation.

Amendment 23

Proposal for a directive – amending act

Article 1 – point 2 – point c

Directive 2003/87/EC

Article 3 – point u a (new)

Text proposed by the Commission

Amendment

(ua) ‘externalised installation’ means an installation owned and/or operated by a third party, which fulfils a function that may alternatively be provided by an internal production activity integrated into the production process of the economic sector concerned;

Justification

The term ‘externalised installations’ should be defined in order to avoid that they suffer from different allocation methods and thus different costs, higher than those of internal generation in the sectors which they supply.

Amendment 24

Proposal for a directive – amending act

Article 1 - point 2 - point c

Directive 2003/87/EC

Article 3 - point u b (new)

Text proposed by the Commission

Amendment

(ub) ‘international agreement’ means an agreement between countries in the context of the United Nations Framework Convention on Climate Change (UNFCCC) which aims to reduce global emissions by the magnitude required to address climate change effectively by limiting the global temperature increase to 2°C, and which is legally enforceable, measurable, reportable and verifiable; such international agreement should include a critical mass of global sectoral production.

Amendment 25

Proposal for a directive – amending act

Article 1 – point 4

Directive 2003/87/EC

Article 6 – paragraph 1 - subparagraph 3

Text proposed by the Commission

The competent authority shall, at least every five years, review the greenhouse gas emissions permit and make any amendments as are appropriate.

Amendment

The competent authority shall, at least every five years, review the greenhouse gas emissions permit and make any amendments as are appropriate, ***in the light of the most recent scientific findings.***

Justification

It should be stressed that the review of emissions permits and any proposed amendments will take place in the light of new scientific data.

Amendment 26

Proposal for a directive – amending act

Article 1 - point 7

Directive 2003/87/EC

Article 10 - paragraph 1

Text proposed by the Commission

1. From 2013 onwards, **Member States** shall auction all allowances which are not allocated free of charge in accordance with Article 10a.

Amendment

1. From 2013 onwards, ***the Commission or a competent body designated by the Commission*** shall auction all allowances which are not allocated free of charge in accordance with Article 10a.

Justification

In order to minimise uncertainty for business, move further towards harmonisation and maximise efficiencies, auctioning should be administered centrally.

Amendment 27

Proposal for a directive – amending act

Article 1 - point 7

Directive 2003/87/EC

Article 10 - paragraph 2 - introductory part

Text proposed by the Commission

2. The total quantity of allowances to be

Amendment

2. The total quantity of allowances to be

auctioned **by** each Member State shall be composed as follows:

auctioned **in** each Member State shall be composed as follows:

Justification

Whilst there still remains a case for varying the level of auctioning rights made available to participants in the different Member States, auctioning should still be administered centrally. This change is required to clarify this.

Amendment 28

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 2 – point a

Text proposed by the Commission

(a) **90 %** of the total quantity of allowances to be auctioned being distributed amongst Member States in shares that are identical to the share of verified emissions under the Community scheme in **2005** of the Member State concerned;

Amendment

(a) **80 %** of the total quantity of allowances to be auctioned being distributed amongst Member States in shares that are identical to the share of verified emissions under the Community scheme in **2008** of the Member State concerned;

Justification

The year 2008 is a first year with consistent EU ETS data will be common for all 27 Member States. In addition since 2008, the new definition of installation starts applying.

This is a proposition to introduce an additional 10% of the total quantity of allowances to be auctioned amongst Member States based on the achievements accomplished between Kyoto Protocol base year(s) and the year 2008—the first year of the Kyoto Protocol commitment period. This approach properly reflects the individual countries' Kyoto achievements as provided for in the 2007 and 2008 Spring European Council Conclusions.

Amendment 29

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) 10 % of the total quantity of allowances to be auctioned being distributed amongst Member States in

accordance with achievements accomplished between the Kyoto Protocol base year and the year 2008 in order to account for the efforts made up to the date of the introduction of the Community scheme.

Justification

The year 2008 is a first year with consistent EU ETS data will be common for all 27 Member States. In addition since 2008, the new definition of installation starts applying.

This is a proposition to introduce an additional 10% of the total quantity of allowances to be auctioned amongst Member States based on the achievements accomplished between Kyoto Protocol base year(s) and the year 2008—the first year of the Kyoto Protocol commitment period. This approach properly reflects the individual countries' Kyoto achievements as provided for in the 2007 and 2008 Spring European Council Conclusions.

Amendment 30

Proposal for a directive – amending act

Article 1 - point 7

Directive 2003/87/EC

Article 10 - paragraph 3

Text proposed by the Commission

3. **At least 20%** of the revenues generated from the auctioning of allowances referred to in paragraph 2, including all revenues from the auctioning referred to in point (b) thereof, **should** be used for the following:

(a) to reduce greenhouse gas emissions, including by contributing to the Global Energy Efficiency and Renewable Energy Fund, **to adapt to the impacts of climate change and to fund research and development for reducing emissions and adapting, including participation in initiatives within the framework of European Strategic Energy Technology Plan;**

(b) to develop renewable energies to meet

Amendment

3. **Half** of the revenues generated from the auctioning of allowances referred to in paragraph 2, including all revenues from the auctioning referred to in point (b) thereof, **shall** be used **in a dedicated fund. Up to half of this fund shall be used, in the most efficient and effective manner,** for the following:

(a) to reduce greenhouse gas emissions **from developing countries, in particular Least Developed Countries**, including by contributing to the Global Energy Efficiency and Renewable Energy Fund;

the commitment of the Community to using 20% renewable energies by 2020, and to meet the commitment of the Community to increase energy efficiency by 20% by 2020;

(c) for the capture and geological storage of greenhouse gases, in particular from coal power stations;

(d) for measures to avoid deforestation, in particular in Least Developed Countries;

(e) to facilitate developing countries' adaptation to the impacts of climate change;

(f) to address social aspects in lower and middle income households, for example by increasing their energy efficiency and insulation; and

(g) to cover administrative expenses of the management of the Community scheme.

(d) for measures to avoid *or reverse* deforestation *or the degradation of soil*, in particular in Least Developed Countries;

(e) to facilitate developing countries' adaptation to the impacts of climate change;

(ea) to develop institutional capacity in Least Developed Countries to successfully develop and manage emissions reduction projects.

The remaining proportion of the fund referred to in the first subparagraph shall be used for the following:

(i) to fund research and development for reducing emissions and adapting to the impacts of climate change, including participation in initiatives within the framework of the European Strategic Energy Technology Plan or the European Technology Platforms;

(ii) to facilitate adaptation to the impacts of climate change within the Community;

(iii) to address social impacts in lower and middle income households, for example by increasing their energy efficiency and insulation;

(iv) to mitigate the impact of the Community scheme on regions affected by special geographic and demographic challenges, by assisting them in developing a sustainable energy policy; and

(v) to cover the administrative expenses of the management of the Community scheme.

3a. Member States shall return, in compliance with state aid rules, the remaining proportion 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(b), to research, innovation and investments in low-carbon technologies, including, inter alia, renewable energy, the capture and geological storage of greenhouse gases and more energy efficient production processes. Member States shall adopt measures which ensure that the revenues returned are used only for these purposes and shall set out these measures in the report specified in paragraph 4.

Amendment 31

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 5

Text proposed by the Commission

5. By **31 December 2010**, the Commission shall adopt a Regulation on timing, administration and other aspects of auctioning to ensure that it is conducted in an open, transparent and non-discriminatory manner. Auctions shall be designed **to ensure that** operators, and in particular any small and medium size enterprises covered by the Community scheme, have **full** access and **any other** participants **do** not undermine the operation of the auction. *That* measure, designed to amend *nonessential* elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

Amendment

5. By **31 December 2009**, the Commission shall adopt a Regulation on timing, administration and other aspects of auctioning to ensure that it is conducted in an open, transparent and non-discriminatory manner.

The Commission shall consult all relevant stakeholders in advance of submitting that Regulation. Auctions shall be designed

and conducted in accordance with the following:

(a) the purpose of the auctions shall be to allocate allowances to operators and/or market intermediaries for a price determined by the market and not to achieve revenue maximisation or reach a pre-determined price;

(b) sufficient liquidity shall be maintained in the market at all times, in particular in 2013. To this end, the process shall be predictable in particular as regards the timing and sequencing of auctions and the volumes to be made available;

(c) the auctions shall be open to any valid account holder within the Community scheme able to provide financial assurance that bids will be honoured;

(d) operators, and in particular any small and medium size enterprises covered by the Community scheme, shall have fair and equal access and may participate fully;

(e) participation shall not impose unreasonable financial burdens on operators;

(f) all participants shall have access to the same information at the same time; and

(g) participants shall not collude or otherwise act to undermine the operation of the auction.

The measure referred to in the first subparagraph, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

Justification

Point c seeks to clarify the definition of participant to auctions, and in particular to make sure that participants provide assurance that they are able to honour their bids. Not doing so could create opportunities for speculative behaviour.

Amendment 32

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission shall, by 31 December 2008, publish a clear definition of emission allowances, which shall exclude the possibility for their securitisation in the financial markets and, in auctioning, give a privileged position to bidders who will use them for power generation or the production of industrial goods.

Justification

In the absence of clear rules the emission rights will be financial products. If the auctioning and the secondary markets are open to all bidders (including institutional investors, hedge funds, state funds etc.) there will be a danger of purely speculative price formation. That is why it must the access to original auctioning procedure should be open only to the bidders who need emission rights in production processes.

Amendment 33

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a - paragraph 1

Text proposed by the Commission

Amendment

1. The Commission shall, by **30 June 2011**, adopt Community wide and fully-harmonised implementing measures for allocating the allowances referred to in paragraphs 2 to 6 and 8 in a harmonised manner.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

The measures referred to in the first subparagraph shall, ***to the extent feasible***,

1. The Commission shall, by **30 June 2010**, adopt Community wide and fully-harmonised implementing measures for allocating the allowances referred to in paragraphs 2 to 6 and 8 in a harmonised manner.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

The measures referred to in the first subparagraph shall ***establish EU-wide ex***

ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions, by taking account of the most efficient techniques, substitutes, alternative production processes, use of biomass and greenhouse gas capture and storage, and shall not give incentives to increase emissions. No free allocation shall be made in respect of any electricity production.

The Commission shall, upon the conclusion by the Community of an international agreement on climate change

ante benchmarks set at the level of least CO₂ intensive output per unit for greenhouse gas emissions and energy efficiency for installations in each sector receiving free allocations. These sectoral benchmarks shall be based on the best greenhouse gas and energy efficient techniques, including the technical potential to reduce emissions, and technologies available on the market, including substitutes, generally applicable alternative production processes, use of biomass, cogeneration and greenhouse gas capture and storage. Free allocations to installations shall be made at a level no higher than is indicated by the appropriate sectoral benchmark, so as to reward the most efficient operators. Overall, the measures referred to in the first subparagraph shall not give incentives to increase emissions overall or per unit of production. In establishing the benchmarks, the Commission shall consult the sectors concerned and other relevant stakeholders. No free allocation shall be made in respect of any electricity production, except for electricity produced either in connection with industrial heat through high efficiency cogeneration as defined in Directive 2004/8/EC or from residues from an industrial process using best available technologies, provided that it is produced for the own consumption of the operator; all of which shall receive allocation under the same principles as applied to that industrial activity as mentioned in Annex 1.

Where waste gas from a production process is used as fuel all allowances shall be allocated to the operator of the installation generating the waste gas with the same allocation principles as applied to that industrial activity as mentioned in Annex 1.

The Commission shall, upon the conclusion by the Community of an international agreement on climate change

leading to mandatory reductions of greenhouse gas emissions comparable to those of the Community, review those measures to provide that free allocation only takes place where this is fully justified in the light of that agreement.

leading to mandatory reductions of greenhouse gas emissions comparable to those of the Community, review those measures to provide that free allocation only takes place where this is fully justified in the light of that agreement.

Amendment 34

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Commission shall, by 1 September 2009, draw up a report on the results of its examination of whether it is appropriate to propose a directive on white certificates, as referred to in Article 4(5) of Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services¹. In particular, this report shall set out the potential for a mandatory, Community-wide white certificates trading scheme, providing further incentives for operators benefiting from free allowances to invest in the most energy efficient techniques and technologies, setting mandatory energy efficiency targets or caps for participants, and providing a system of tradable certificates which can be generated from adoption of energy efficient techniques or technologies. If the report indicates that such a scheme would be environmentally beneficial, cost effective and practically feasible, and would accord with the principles of better regulation, the Commission shall bring forward appropriate legislative proposals by 30 June 2010.

¹ OJ L 114, 27.4.2006, p. 64.

Justification

In Article 4(5) Directive 2006/32/EC on end-use efficiency and energy services the Commission are required to examine whether to bring forward a proposal on white certificates based on the first three years of application of the Directive. But no firm date is set for the conclusion of this important examination. The 'Euro White Cert' Project, supported by Intelligent Energy Europe, is currently examining the potential for an EU-wide system of White Certificates, and its potential links with EU ETS.

Amendment 35

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Installations, whether they are externalised or not, will receive equal treatment as regards emissions allowances.

Justification

In order not to create incentives from the current proposal that lead to market distortions and also increases emissions. It is essential that the text of the Directive reflects “outsourcing” of activities by many sectors.

Amendment 36

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a - paragraph 3

Text proposed by the Commission

Amendment

3. Free allocation ***may*** be given to electricity generators in respect of the production of heat through high efficiency cogeneration as defined by Directive 2004/8/EC for economically justifiable demand to ensure equal treatment with regard to other producers of heat. In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted

3. Free allocation ***shall*** be given to electricity generators in respect of the production of heat ***that is for sale to third parties, including district heating networks***, through high efficiency cogeneration as defined by Directive 2004/8/EC ***on the basis of standard Community-wide ex-ante per unit of production benchmarks*** for economically justifiable demand to ensure equal

by the linear factor referred to in Article 9.

treatment with regard to other producers of heat. In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 9.

Amendment 37

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 6 – subparagraph 1

Text proposed by the Commission

6. Five percent of the Community-wide quantity of allowances determined in accordance with Articles 9 and 9a over the period 2013 to 2020 shall be set aside for new entrants, *as* the maximum that may be allocated to new entrants in accordance with the rules adopted pursuant to paragraph 1 of this Article.

Amendment

6. Five percent of the Community-wide quantity of allowances determined in accordance with Articles 9 and 9a over the period 2013 to 2020 shall be set aside *for providing liquidity* for new entrants *and for market situations creating carbon prices which are unreasonably high or low*. The maximum that may be allocated to new entrants in accordance with the rules adopted pursuant to paragraph 1 of this Article.

Justification

The reserve delivers liquidity (allowances) for new entrants. For the whole carbon market it is essential to have instruments which allow reactions to extraordinary market situations. We urge to use a part of the reserve for increasing liquidity in the event of a critically high carbon price. In the event of too low carbon prices the liquidity should be reduced (this measure should be inserted in the auctioning rules). We suggest a price margin between 20 and 50 Euro. Liquidity measures should be dealt with by the auctioning rules referred to in Art. 10.

Amendment 38

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a - paragraph 6 - subparagraph 3

Text proposed by the Commission

No free allocation shall be made in respect of any electricity production by new entrants.

Amendment

No free allocation shall be made in respect of any electricity production by new entrants, *except for electricity produced either in connection with industrial heat through high efficiency cogeneration as defined in Directive 2004/8/EC or from residues from an industrial process using best available technologies, provided that it is produced for the own consumption of the operator; all of which shall receive allocation under the same principles as applied to that industrial activity as mentioned in Annex I.*

However, where a waste gas from a production process is used as a fuel all allowances shall be allocated to the operator of the installation generating the waste gas with the same allocation principles as applied to that industrial activity as mentioned in Annex I.

The Commission shall by 31 December 2010 publish Community wide and fully harmonised rules for the allocation of the new entrant reserve. These rules shall include guidelines on the application of the definition of "new entrant" including significant increases in capacity through, inter alia, extensions of the installation.

That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)]

Amendment 39

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a - paragraph 7

Text proposed by the Commission

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be **80%** of the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020.

Amendment

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be **100%** of the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020.

Amendment 40

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a - paragraphs 8 and 9

Text proposed by the Commission

8. In 2013 and in each subsequent year up to 2020, installations in sectors which are exposed to a significant risk of carbon leakage shall be allocated allowances free of charge up to 100 percent of the quantity determined in accordance with paragraphs 2 to 6.

9. At the latest by **30 June 2010** and every **3 years** thereafter the Commission shall determine the sectors referred to in paragraph 8.

That measure, designed to amend non-essential elements of this Directive by

Amendment

8. In 2013 and in each subsequent year up to 2020, installations in sectors which are exposed to a significant risk of carbon leakage shall be allocated allowances free of charge up to 100 percent of the quantity determined in accordance with paragraphs 2 to 6. ***Without prejudice to paragraphs 4 and 5 and without exceeding the total quantity of allowances set out in Article 9, the Commission may allocate additional allowances to these installations to take into account the effect of the passing on of the cost of allowances in the electricity price to the sector or sub-sector concerned.***

9. At the latest by **1 June 2010** and every **four years** thereafter the Commission shall determine the sectors referred to in paragraph 8. ***The Commission shall consult the sectors concerned and other relevant stakeholders.***

That measure, designed to amend non-essential elements of this Directive by

supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

In the determination referred to in the first subparagraph the Commission shall take into account the extent to which it is possible for the sector or sub-sector concerned to pass on the cost of the required allowances in product prices without significant loss of market share to less carbon efficient installations outside the Community, taking into account the following:

- (a) the extent to which auctioning would lead to a substantial increase in production cost;
- (b) the extent to which it is possible for individual installations in the sector concerned to reduce emission levels for instance on the basis of the most efficient techniques;
- (c) market structure, relevant geographic and product market, the exposure of the sectors to international competition;
- (d) the effect of climate change and energy policies implemented, or expected to be implemented outside the EU in the sectors concerned.

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the increased carbon price or the impact on the profitability of the installations concerned may inter alia be used.

supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

In the determination referred to in the first subparagraph the Commission shall take into account the extent to which it is possible for the sector or sub-sector concerned to pass on the cost of the required allowances in product prices without significant loss of market share to less carbon efficient installations ***or investments to installations in countries*** outside the Community ***that do not impose comparable and verifiable constraints on emissions***, taking into account the following:

- (a) the extent to which auctioning would lead to a substantial increase in production cost;
- (b) the extent to which it is possible for individual installations in the sector concerned to reduce emission levels for instance on the basis of the most efficient techniques;
- (c) market structure, relevant geographic and product market, the exposure of the sectors to international competition;
- (d) the effect of climate change and energy policies implemented, or expected to be implemented outside the EU in the sectors concerned;

(da) the effect of the pass on of the cost of allowances in the electricity price to the sector or sub-sector concerned;

(db) the effect on the security of supply of raw materials in the Community.

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the increased carbon price or the impact on the profitability of the installations concerned may inter alia be used.

Amendment 41

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10b

Text proposed by the Commission

Not later than **June 2011**, the Commission shall, in the light of the outcome of the international negotiations and the extent to which these lead to global greenhouse gas emission reductions, and after consulting with all relevant social partners, submit to the European Parliament and to the Council an analytical report assessing the situation with regard to energy-intensive sectors or sub-sectors that have been determined to be exposed to significant risks of carbon leakage. This shall be accompanied by any appropriate proposals, **which may include:**

- adjusting the proportion of allowances received free of charge by those sectors or sub-sectors under Article 10a;

- inclusion in the Community scheme of importers of products produced by the sectors or sub-sectors determined in accordance with Article 10a.

Any binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall **also** be taken into account when considering what measures are appropriate.

Amendment

Not later than **June 2010**, the Commission shall, in the light of the outcome of the international negotiations and the extent to which these lead to global greenhouse gas emission reductions, and after consulting with all relevant social partners, submit to the European Parliament and to the Council an analytical report assessing the situation with regard to energy-intensive sectors or sub-sectors that have been determined to be exposed to significant risks of carbon leakage. This shall be accompanied by any appropriate proposals.

Any binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall be taken into account when considering what measures are appropriate.

In the absence of an international agreement and binding sectoral agreements, as specified above, the Commission shall specifically examine, in the abovementioned report, the feasibility of adjusting the proportion of allowances received free of charge by those sectors or sub-sectors under Article 10a, of

including importers of products produced by the sectors or sub-sectors determined in accordance with Article 10a in the Community scheme or of setting up a Border Adjustment Mechanism.

Amendment 42

Proposal for a directive – amending act

Article 1 - point 9

Directive 2003/87/EC

Article 11a

Text proposed by the Commission

Use of CERs and ERUs from project activities in the Community scheme ***before the entry into force of a future international agreement on climate change***

1. Until a future international agreement on climate change has entered into force, and in advance of the application of paragraphs 3 and 4 of Article 28, paragraphs 2 to 7 of this Article shall apply.

2. Operators may request the competent authority, ***to the extent that the levels of CER/ERU use allowed to them by Member States for the period 2008 to 2012 have not been used up***, to issue allowances to them valid from 2013 onwards in exchange for CERs and ERUs issued in respect of emission reductions up until 2012 from project types which were accepted by ***all*** Member States in the Community scheme during the period 2008 to 2012. Until 31 December 2014, the competent authority shall make such an exchange on request.

3. ***To the extent that the levels of CER/ERU use allowed to operators by Member States for the period 2008 to 2012 have not been used up, competent*** authorities shall allow operators to exchange CERs from projects that were

Amendment

Use of CERs and ERUs from project activities in the Community scheme

1. Until a future international agreement on climate change has entered into force, and in advance of the application of paragraphs 3 and 4 of Article 28, paragraphs 2 to 7 of this Article shall apply.

2. Operators may request the competent authority to issue allowances to them valid from 2013 onwards in exchange for CERs and ERUs issued in respect of emission reductions up until 2012 from project types which were accepted by ***a majority of Member States representing a qualified majority as defined in Article 205(2) of the Treaty*** in the Community scheme during the period 2008 to 2012. Until 31 December 2014, the competent authority shall make such an exchange on request.

3. ***Competent*** authorities shall allow operators to exchange CERs from projects that were established before 2013 issued in respect of emission reductions from 2013 onwards for allowances valid from 2013 onwards.

established before 2013 issued in respect of emission reductions from 2013 onwards for allowances valid from 2013 onwards.

The first subparagraph shall apply for all project types which were accepted by *all* Member States in the Community scheme during the period 2008 to 2012.

4. To the extent that the levels of CER/ERU use allowed to operators by Member States for the period 2008 to 2012 have not been used up, competent authorities shall allow operators to exchange CERs issued in respect of emission reductions from 2013 onwards for allowances from new projects started from 2013 onwards in Least Developed Countries.

The first subparagraph shall apply to CERs for all project types which were accepted by *all* Member States in the Community scheme during the period 2008 to 2012, until those countries have ratified an agreement with the Community or until 2020, whichever is the earlier.

5. To the extent that the levels of CER/ERU use allowed to operators by Member States for the period 2008 to 2012 have not been used up and in the event that the conclusion of an international agreement on climate change is delayed, credits from projects or other emission reducing activities may be used in the Community scheme in accordance with agreements concluded with third countries, specifying levels of use. In accordance with such agreements, operators shall be able to use credits from project activities in those third countries to comply with their obligations under the Community scheme.

6. Any agreements referred to in paragraph 5 shall provide for the use of credits in the Community scheme from renewable

The first subparagraph shall apply for all project types which were accepted by *a majority of* Member States *representing a qualified majority as defined in Article 205(2) of the Treaty* in the Community scheme during the period 2008 to 2012.

4. Competent authorities shall allow operators to exchange CERs issued in respect of emission reductions from 2013 onwards for allowances from new projects started from 2013 onwards in Least Developed Countries.

The first subparagraph shall apply to CERs for all project types which were accepted by *a majority of* Member States *representing a qualified majority as defined in Article 205(2) of the Treaty* in the Community scheme during the period 2008 to 2012, until those countries have ratified an agreement with the Community or until 2020, whichever is the earlier.

5. To the extent that the levels of CER/ERU use allowed to operators by Member States for the period 2008 to 2012 have not been used up and in the event that the conclusion of an international agreement on climate change is delayed, credits from projects or other emission reducing activities may be used in the Community scheme in accordance with agreements concluded with third countries, specifying levels of use. In accordance with such agreements, operators shall be able to use credits from project activities in those third countries to comply with their obligations under the Community scheme.

6. Any agreements referred to in paragraph 5 shall provide for the use of credits in the Community scheme from renewable

energy or energy efficiency technologies which promote technological transfer, sustainable development. Any such agreement may also provide for the use of credits from projects where the baseline used is below the level of free allocation under the measures referred to in Article 10a or below the levels required by Community legislation.

7. Once an international agreement on climate change has been reached, only CERs from third countries which have ratified that agreement shall be accepted in the Community scheme.

energy or energy efficiency technologies which promote technological transfer, sustainable development. Any such agreement may also provide for the use of credits from projects where the baseline used is below the level of free allocation under the measures referred to in Article 10a or below the levels required by Community legislation.

6a. The use of credits by installations pursuant to paragraphs 2, 3, 4 and 5 shall not exceed a quantity equal to 35% of the greenhouse gas emission reductions required in the period 2008 to 2020 for the installations covered under Directive 2003/87/EC.

7. Once an international agreement on climate change has been reached, only CERs from third countries which have ratified that agreement shall be accepted in the Community scheme.

7a. The Commission shall endeavour to ensure that any agreement referred to in paragraph 5 and the international agreement referred to in paragraph 7 includes a crediting system for sustainable, verifiable and permanent afforestation, reforestation, reduced emissions from deforestation and other sustainable forestry projects and activities, including inter alia soil erosion avoidance and cleaning of waste water. Such projects shall meet high quality criteria to be adopted within the framework established by the United Nations, as specified in Article 28a.

Amendment 43

Proposal for a directive – amending act

Article 1 - point 10 a (new)

Directive 2003/87/EC

Article 12 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

(10a) In Article 12, the following paragraph shall be added:

"1a. The Commission shall, by 1 September 2009, bring forward appropriate legislative proposals that will ensure that the market for emissions allowances is protected from insider dealing and market manipulation. In particular, the Commission shall consider whether, for the purpose of this Directive, allowances shall be regarded as financial instruments within the scope of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)¹."

¹ OJ L 96, 12.4.2003, p. 16."

Justification

The legal nature of allowances on the financial market is unclear. Some countries consider them to be financial instruments whose trading is supervised by the financial service authority, while other countries consider them to be normal commodities and only their derivatives are viewed as financial instruments. It is important to create clarity in order to enhance business confidence and increase transparency. Inside trading and market manipulation could distort the market, reduce its credibility and harm investors' confidence.

Amendment 44

Proposal for a directive – amending act

Article 1 - point 13 a (new)

Directive 2003/87/EC

Article 15 a (new)

Text proposed by the Commission

Amendment

(13a) The following Article shall be inserted:

"Article 15a

Disclosure of information and professional secrecy

1. Member States and the Commission

shall ensure that all decisions and reports relating to the quantity and allocation of allowances and to the monitoring, reporting and verification of emissions shall immediately be disclosed in a manner ensuring fast access to such information on a non-discriminatory basis.

2. The obligation of professional secrecy shall apply to all persons who work or have worked for the Commission or for Member States' competent authorities and for bodies to which the Commission or Member States' competent authorities may have delegated certain tasks. Information covered by professional secrecy may not be disclosed to any other person or authority except by virtue of the laws, regulations or administrative provisions in place."

Justification

It is vital to ensure the application of rules governing financial instruments with regard to the trading of allowances in order to enhance business confidence and increase transparency. Publication of market sensitive information by the Commission and Member States should be strictly and clearly regulated.

Amendment 45

Proposal for a directive – amending act

Article 1 - point 14 a (new)

Directive 2003/87/EC

Article 18 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

(14a) In Article 18, the following paragraph shall be added:

"The Commission or a competent body designated by the Commission shall administer at Community level the auctioning of allowances set out in Article 10. This competent body shall coordinate its activities closely with the competent authorities designated by Member States.

In particular, it shall ensure that the competent authorities in each Member State are given full and accurate data on the allocation of allowances through the auction to installations within their jurisdiction."

Amendment 46

Proposal for a directive – amending act

Article 1 - point 20

Directive 2003/87/EC

Article 25 - paragraph 1b a (new)

Text proposed by the Commission

Amendment

1ba. The Commission shall in the framework of the European Neighbourhood Policy and the enlargement process aim at concluding agreements with the countries concerned to include them in the Community scheme or to provide for the mutual recognition of allowances.

Justification

It is vital to encourage third countries bordering the EU to join the EU ETS. This is not only important from an environmental and development point of view, but will also address the issue of carbon leakage by EU companies moving over the border.

Amendment 47

Proposal for a directive – amending act

Article 1 - point 21

Directive 2003/87/EC

Article 27 - title and paragraph 1

Text proposed by the Commission

Amendment

Exclusion of small ***combustion*** installations subject to equivalent measures

1. Member States may exclude, from the Community scheme, ***combustion*** installations which ***have a rated thermal input below 25MW***, reported emissions to

Exclusion of small installations subject to equivalent measures

1. Member States may ***at the request of the operator*** exclude, from the Community scheme, installations which reported emissions to the competent authority of

the competent authority of less than **10 000 tonnes** of carbon dioxide equivalent, excluding emissions from biomass, in each of the preceding 3 years, 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 that are in place,
- (b) it confirms that monitoring arrangements are in place to assess whether any installation emits **10 000 tonnes** or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year;
- (c) it confirms that if any installation emits **10 000 tonnes** or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year or the equivalent measures are no longer in place, the installation will be re-introduced into the system;
- (d) it publishes the information referred to in points (a), (b) and (c) for public comment.

less than **25 000 tonnes** of carbon dioxide equivalent, excluding emissions from biomass, in each of the preceding 3 years, ***which, in the case of combustion installations, have a rated thermal input below 35 MW*** 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 that are in place,
- (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;
- (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 equivalent measures are no longer in place, the installation will be re-introduced into the system;
- (d) it publishes the information referred to in points (a), (b) and (c) for public comment.

Amendment 48

Proposal for a directive – amending act

Article 1 - point 21

Directive 2003/87/EC

Article 28

Text proposed by the Commission

1. Upon the conclusion by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding the minimum reduction levels agreed upon by the European Council,

Amendment

1. Upon the conclusion by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding the minimum reduction levels agreed upon by the European Council,

paragraphs 2, 3 and 4 shall apply.

2. From the year following the conclusion of the international agreement referred to in paragraph 1, the linear factor shall increase so that the Community quantity of allowances in 2020 is lower than that established pursuant to Article 9, by a quantity of allowances equivalent to the overall reduction of greenhouse gas emissions by the Community below 20% to which the international agreement commits the Community, multiplied by the share of overall greenhouse gas emission reductions in 2020 which the Community scheme is contributing pursuant to Articles 9 and 9a.

3. Operators may use CERs, ERUs or other credits approved in accordance with paragraph 4 from third countries which have concluded the international agreement, up to half of the reduction taking place in accordance with paragraph 2.

4. The Commission may adopt measures to provide for the use of additional project types by operators in the Community scheme to those referred to in paragraphs 2 to 5 of Article 11a or the use by such operators of other mechanisms created under the international agreement, as appropriate.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

paragraphs 2 to 4b shall apply.

2. From the year following the conclusion of the international agreement referred to in paragraph 1, the linear factor shall increase so that the Community quantity of allowances in 2020 is lower than that established pursuant to Article 9, by a quantity of allowances equivalent to the overall reduction of greenhouse gas emissions by the Community below 20% to which the international agreement commits the Community, ***consistent with the European Council conclusions of March 2007***, multiplied by the share of overall greenhouse gas emission reductions in 2020 which the Community scheme is contributing pursuant to Articles 9 and 9a.

3. Operators may use ***high quality*** CERs, ERUs or other credits approved in accordance with paragraph 4 from third countries which have concluded the international agreement, up to half of the reduction taking place in accordance with paragraph 2.

4. The Commission may adopt measures to provide for the use ***and quality*** of additional project types by operators in the Community scheme to those referred to in paragraphs 2 to 5 of Article 11a or the use by such operators of other mechanisms created under the international agreement, as appropriate.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

4a. Within eight months of the conclusion of the international agreement, the Commission shall carry out and submit it to the European Parliament and Council, a comprehensive impact assessment of the effects of achieving the emissions reductions in the EU required by that agreement and the measures taken to achieve those reductions , as well as any

other measures adopted in the agreement. This impact assessment shall in particular set out the extent to which the international agreement is likely significantly to reduce the risk of carbon leakage for industries exposed to international competition, including by ensuring comparable burdens on industries operating outside of the Community.

4b. If the impact assessment indicates that the international agreement is unlikely significantly to reduce the risk of carbon leakage for industries exposed to international competition, the Commission shall submit an appropriate legislative proposal to the European Parliament and the Council. This proposal shall if appropriate, contain the following proposals :

a) to modify the Community quantity of allowances in 2020, taking into account the overall reduction of greenhouse gas emissions by the Community below 20% to which the international agreement commits the Community, consistent with the European Council conclusions of March 2007;

b) for the use of CERs, ERUs or other credits by operators in the Community scheme;

c) to reduce the risk of carbon leakage including, inter alia, any proposals referred to in Article 10a, paragraphs 1, 8 and 9, and Article 10b.

Amendment 49

Proposal for a directive – amending act Article 1 - point 21 a (new)

Directive 2003/87/EC

Article 28 a (new)

(21a) The following Article shall be inserted:

"Article 28a

Use of credits for afforestation, reforestation and forestry

1. Notwithstanding Articles 11a and 28, Member States shall allow operators of installations to use credits, in addition to the limit specified in Article 11a (6a), up to 5% of the greenhouse gas emission reductions required for the installations covered under Directive 2003/87/EC from:

(a) sustainable, verifiable and permanent afforestation and reforestation projects certified by the CDM Executive Board or verified under the Joint Implementation Supervisory Committee procedure;

(b) sustainable, verifiable and permanent forestry activities in developing countries with which an agreement has been concluded in accordance with Article 11a(5); and

(c) any sustainable, verifiable and permanent forestry projects in developing countries in compliance with the international agreement referred to in Article 28.

2. The projects set out in paragraph 1(a) to (c) above shall all meet high quality criteria, to be adopted by the Commission within the framework established by the United Nations.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)]."

Amendment 50

Proposal for a directive – amending act

Article 1 - point 21 b (new)

Directive 2003/87/EC

Article 30

Text proposed by the Commission

Amendment

(21b) Article 30 shall be replaced by the following:

"Article 30

Review and further development

[...]

1. On the basis of experience of the application of this Directive [...] and in the light of developments in the international context, the Commission shall draw up a report on the application of this Directive, considering:

(a) [...] whether [...] other relevant sectors [...] and [...] activities, *inter alia* the transport sectors, domestic and commercial heating and agriculture, should be included under the Community scheme;

(b) *further harmonisation of definitions, charges and penalties;*

(c) *the threshold for excluding small installations from the Community scheme where equivalent measures are in place;*

(d) *any necessary measures to prevent market abuse and harmful speculation.*

[...]

2. The Commission shall submit this report to the European Parliament and the Council by 30 June 2015, accompanied by proposals as appropriate.

3. *The Commission shall bring forward as soon as possible legislative proposals to incorporate the shipping sector into the Community scheme by 2013.*

4. The Commission shall, by 2013, bring forward appropriate proposals specifying a date for the incorporation of road transport into the Community scheme, based upon a full evaluation of the costs, benefits and practicalities of the options for inclusion."

Justification

The original article on the review clause became obsolete and should be replaced by a new one. It is important to keep reviewing the scheme in order to enhance its efficiency, add other sectors to it and guarantee a level playing field in the EU

PROCEDURE

Title	Greenhouse gas emission allowance trading system			
References	COM(2008)0016 – C6-0043/2008 – 2008/0013(COD)			
Committee responsible	ENVI			
Opinion by Date announced in plenary	ITRE 19.2.2008			
Associated committee(s) - date announced in plenary	10.4.2008			
Drafts(wo)man Date appointed	Lena Ek 18.3.2008			
Discussed in committee	7.4.2008	5.6.2008	16.7.2008	10.9.2008
Date adopted	11.9.2008			
Result of final vote	+: 30 -: 21 0: 1			
Members present for the final vote	Jan Březina, Jerzy Buzek, Dragoş Florin David, Pilar del Castillo Vera, Den Dover, Lena Ek, Nicole Fontaine, Adam Gierek, András Gyürk, David Hammerstein, Erna Hennicot-Schoepges, Romana Jordan Cizelj, Werner Langen, Anne Laperrouze, Patrick Louis, Eugenijus Maldeikis, Eluned Morgan, Angelika Niebler, Reino Paasilinna, Aldo Patriciello, Francisca Pleguezuelos Aguilar, Anni Podimata, Miloslav Ransdorf, Vladimír Remek, Teresa Riera Madurell, Mechtild Rothe, Paul Rübig, Britta Thomsen, Catherine Trautmann, Claude Turmes, Nikolaos Vakalis, Adina-Ioana Vălean, Alejo Vidal-Quadras			
Substitute(s) present for the final vote	Danutë Budreikaitė, Dorette Corbey, Avril Doyle, Christian Ehler, Göran Färm, Juan Fraile Cantón, Neena Gill, Matthias Groote, Françoise Grossetête, Satu Hassi, Eija-Riitta Korhola, Toine Manders, Vittorio Prodi, Esko Seppänen, Lambert van Nistelrooij			
Substitute(s) under Rule 178(2) present for the final vote	Giovanna Corda, Lily Jacobs, Johannes Lebech, Linda McAvan			

17.9.2008

OPINION OF THE COMMITTEE ON INTERNATIONAL TRADE

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community
(COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))

Rapporteur: Corien Wortmann-Kool

AMENDMENTS

The Committee on International Trade calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive – amending act Recital 3

Text proposed by the Commission

(3) The European Council has made a firm commitment to reduce the overall greenhouse gas emissions of the Community by at least 20% below 1990 levels by 2020, and by 30% provided that other developed countries commit themselves to comparable emission reductions and economically more advanced developing countries contribute adequately according to their responsibilities and respective capabilities. By 2050, global greenhouse gas emissions

Amendment

(3) The European Council has made a firm commitment to reduce the overall greenhouse gas emissions of the Community by at least 20% below 1990 levels by 2020, and by 30% provided that other developed countries commit themselves to comparable emission reductions and economically more advanced developing countries contribute adequately according to their responsibilities and respective capabilities. ***This ambitious contribution by the EU,***

should be reduced by at least 50% below their 1990 levels. All sectors of the economy should contribute to achieving these emission reductions.

together with the emission trading system, is in any case placing a comparatively heavy burden on the European economy in the international context. By 2050, global greenhouse gas emissions should be reduced by at least 50% below their 1990 levels. All sectors of the economy should contribute to achieving these emission reductions, ***including international aviation and maritime transport***).

Justification

European undertakings have to compete at international level and CO₂ emission reduction targets are placing a relatively heavy burden on them in this connection. This is a challenge which must therefore be met if the objectives of the Lisbon Process are to be achieved.

Amendment 2

Proposal for a directive – amending act Recital 6

Text proposed by the Commission

(6) Once the Community and third countries conclude an international agreement according to which ***appropriate*** global action will be taken beyond 2012, considerable support ***should*** be given to credit emission reductions made in those countries. In advance of such an agreement, greater certainty ***should*** nonetheless be given on the continued use of credits from outside the Community.

Amendment

(6) Once the Community and third countries conclude an international agreement according to which global action will be taken beyond 2012, considerable support ***must*** be given to credit emission reductions made in those countries. In advance of such an agreement, greater certainty ***must*** nonetheless be given on the continued use of credits from outside the Community.

Justification

The directive must create a binding framework for all concerned for the purpose of issuing emission reduction credits.

Amendment 3

**Proposal for a directive – amending act
Recital 15**

Text proposed by the Commission

(15) ***Given the considerable efforts of combating climate change and of adapting to its inevitable effects, it is appropriate that at least 20% of the proceeds from the auctioning of allowances should*** be used to reduce greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for reducing emissions and adaptation, to develop renewable energies to meet the EU's commitment to using 20% renewable energies by 2020, to meet the commitment of the Community to increase energy efficiency by 20% by 2020, for the capture and geological storage of greenhouse gases, to contribute to the Global Energy Efficiency and Renewable Energy Fund, for measures to avoid deforestation and facilitate adaptation in developing countries, and for addressing social aspects such as possible increases in electricity prices in lower and middle income households. This proportion is significantly below the expected net revenues for public authorities from auctioning, taking into account potentially reduced income from corporate taxes. In addition, proceeds from auctioning of allowances should be used to cover administrative expenses of the management of the Community scheme. Provisions should be included on monitoring the use of funds from auctioning for these purposes. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty.

Amendment

(15) ***The proceeds from the auctioning of allowances should help to fund the considerable efforts being made to combat climate change and adapt to its inevitable effects. For example they could*** be used to reduce greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for reducing emissions and adaptation, to develop renewable energies to meet the EU's commitment to using 20% renewable energies by 2020, to meet the commitment of the Community to increase energy efficiency by 20% by 2020, for the capture and geological storage of greenhouse gases, to contribute to the Global Energy Efficiency and Renewable Energy Fund, for measures to avoid deforestation and facilitate adaptation in developing countries, and for addressing social aspects such as possible increases in electricity prices in lower and middle income households. This proportion is significantly below the expected net revenues for public authorities from auctioning, taking into account potentially reduced income from corporate taxes. In addition, proceeds from auctioning of allowances should be used to cover administrative expenses of the management of the Community scheme. ***The Member States should decide on the allocation of proceeds to individual measures depending on the Member States needs.*** Provisions should be included on monitoring the use of funds from auctioning for these purposes. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87

and 88 of the Treaty.

Justification

Given that environmental policy is governed by the principle of shared competence, the Member States must be responsible for deciding on the allocation of the proceeds from the auctioning of allowances to individual measures to combat climate change.

Amendment 4

Proposal for a directive – amending act
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) It may realistically be assumed that the Kyoto II international agreement will lay down different obligations for industrialised and emerging countries ('common but differentiated treatment'). This presents the Community with the challenge of making an effective contribution to containing CO₂ emissions. The agreement could lead to international acceptance of increased CO₂ emissions in certain emerging countries. The Community should therefore take into account the resulting distortions of competition. 'Carbon leakage' arises not only as a result of failure to comply with the international agreement but also where different obligations are imposed by it. Sectoral agreements and benchmarks could solve this problem.

Justification

It is conceivable that economically emerging countries will only accede to an international agreement if they are given further margins for industrial development. The resulting disparities in CO₂ reduction requirements will establish distortions in competition as a fact of life, constantly presenting the EU with the problem of how to respond to the relocation of production activities to places where CO₂ requirements are less stringent.

Amendment 5

Proposal for a directive – amending act Recital 18

Text proposed by the Commission

(18) Transitional free allocation to installations should be provided for through harmonised Community-wide rules ("**benchmarks**") in order to minimise distortions of competition with the Community. These rules should take account of the most greenhouse gas and energy efficient techniques, substitutes, alternative production processes, use of biomass, renewables and greenhouse gas capture and storage. Any such rules should not give incentives to increase emissions and ensure that an increasing proportion of these allowances is auctioned. Allocations must be fixed prior to the trading period so as to enable the market to function properly. They shall also avoid undue distortions of competition on the markets for electricity and heat supplied to industrial installations. These rules should apply to new entrants carrying out the same activities as existing installations receiving transitional free allocations. To avoid any distortion of competition within the internal market, no free allocation should be made in respect of the production of electricity by new entrants. Allowances which remain in the set aside for new entrants in 2020 should be auctioned.

Amendment

(18) Transitional free allocation to installations should be provided for through harmonised Community-wide rules **and sectoral benchmarks** in order to minimise distortions of competition with the Community **and with regard to international competitors**. These rules **and benchmarks** should take account of the most greenhouse gas and energy efficient techniques, substitutes, alternative production processes, use of biomass, renewables, **cogeneration** and greenhouse gas capture and storage. Any such rules should not give incentives to increase emissions and ensure that an increasing proportion of these allowances is auctioned. Allocations must be fixed prior to the trading period so as to enable the market to function properly. They shall also avoid undue distortions of competition on the markets for electricity and heat supplied to industrial installations. These rules should apply to new entrants carrying out the same activities as existing installations receiving transitional free allocations. To avoid any distortion of competition within the internal market, no free allocation should be made in respect of the production of electricity by new entrants **with the exception of electricity produced from waste gases from industrial production processes for their own consumption**. Allowances which remain in the set-aside for new entrants in 2020 should be auctioned. **The Commission should consult the sectors concerned when defining benchmarks.**

Justification

Until a real quantifiable and verifiable international agreement is achieved the Commission has to allow for free allocation of allowances for industries at risk of carbon leakage not only through harmonised Community-wide rules but, more importantly, through sectoral

benchmarks discussed with those involved.

Cogeneration is an energy efficient production process and should be not included.

Waste gases resulting from production processes have to be used immediately after their generation. To ensure their efficient recovery maximum flexibility must be allowed. Their use for electricity generation contributes to resources conservation and reduces CO₂ emissions. Electricity produced under these special circumstances should be excluded from auctioning.

Under the global economic system, European undertakings are forced to compete with undertakings from third countries subject to different framework conditions. Distortions of competition arriving from less stringent CO₂ requirements in third countries increase the danger of production activities being relocated. The situation at international level must therefore be taken into account in seeking to contribute effectively to climate protection.

Amendment 6

Proposal for a directive – amending act Recital 19

Text proposed by the Commission

(19) The Community will continue to take the lead in the negotiation of an ambitious international agreement that will achieve the objective of limiting global temperature increase to 2°C and is encouraged by the progress made in Bali towards this objective. In the event that other developed countries and other major emitters of greenhouse gases do not participate in this international agreement, ***could*** lead to an increase in greenhouse gas emissions in third countries where industry would not be subject to comparable carbon constraints ('carbon leakage'), and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage. This could undermine the environmental integrity and benefit of actions by the Community. To address the risk of carbon leakage, the Community will allocate allowances free of charge ***up to 100%*** to sectors ***or sub-sectors meeting the relevant criteria***. The definition of these sectors and sub-sectors and the measures

Amendment

(19) The Community will continue to take the lead in the negotiation of an ambitious international agreement ***and/or international sectoral agreements*** that will achieve the objective of limiting global temperature increase to 2°C and is encouraged by the progress made in Bali towards this objective. In the event that other developed countries and other major emitters of greenhouse gases do not participate in this international agreement, this ***would*** lead to an increase in greenhouse gas emissions in third countries where industry would not be subject to comparable carbon constraints ('carbon leakage'), and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage. This could undermine the environmental integrity and benefit of actions by the Community. To address the risk of carbon leakage, the Community will allocate allowances ***100%*** free of charge to ***energy-intensive*** sectors. The definition of these sectors and sub-

required will be subject to re-assessment to ensure that action is taken where necessary and to avoid overcompensation. For those specific sectors or sub-sectors where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently, the action taken may take into account the electricity consumption in the production process, without changing the total quantity of allowances.

sectors and the measures required will be subject to re-assessment to ensure that action is taken where necessary and to avoid overcompensation. For those specific sectors or sub-sectors where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently, the action taken may take into account the electricity consumption in the production process, without changing the total quantity of allowances.

Justification

In order to contribute effectively to climate protection the Community must take effective preventive measures to prevent the relocation of production activities to third countries with less stringent CO₂ requirements. In particular, energy-intensive sectors or subsectors are, because of the pressure of international competition, unable to pass on increased costs by raising the price of their products. Therefore additional costs resulting from emission trading would lead to the relocation of production, with a possibly unfavourable impact on global emissions. It is therefore necessary to minimise the burden through the long-term allocation of emission quotas free of charge.

It is important to try not only to achieve a global international agreement but also to secure international sectoral agreements, especially with emerging economies such as China and India.

Amendment 7

Proposal for a directive – amending act Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) If no international agreement on limiting global warming can be achieved the Community should endeavour to conclude bilateral and multilateral agreements with other major greenhouse gas emitters. Independently of the outcome of the current negotiations, the Community should take the lead in setting up a World Environmental Organisation incorporating formal international

environmental provisions already adopted, together with effective judicial mechanisms.

Justification

It is necessary to envisage the possibility of failure of current negotiations regarding the post-Kyoto period and consider lasting and effective solutions.

Amendment 8

Proposal for a directive – amending act Recital 20

Text proposed by the Commission

(20) The Commission should therefore review the situation by June 2011 at the latest, consult with all relevant social partners, and, in the light of the outcome of the international negotiations, submit a report accompanied by any appropriate proposals. ***In this context, the Commission should identify which energy-intensive industry sectors or sub-sectors are likely to be subject to carbon leakage not later than 30 June 2010.*** It should base its analysis on the assessment of the inability to pass on the cost of required allowances in product prices without significant loss of market share to installations outside the Community not taking comparable action to reduce emissions. ***Energy-intensive*** industries which are determined to be exposed to a significant risk of carbon leakage could receive a higher amount of free allocation or an effective carbon equalisation system could be introduced with a view to putting installations from the Community which are at significant risk of carbon leakage and those from third countries on a comparable footing. Such a system could apply requirements to importers that would be no less favourable than those applicable to installations within the EU, for example by requiring the surrender of allowances. Any action taken

Amendment

(20) The Commission should therefore review the situation by June 2011 at the latest, consult with all relevant social partners, and, in the light of the outcome of the international negotiations, submit a report ***assessing the situation, accompanied by any appropriate proposals and relating to all industrial sectors, particularly energy-intensive sectors or individual sectors which have shown themselves to be subject to carbon leakage. Criteria for and the identification of such sectors and sub-sectors should be set, after consulting the social partners and affected stakeholders, in a proposal submitted to the European Parliament and the Council. That proposal should take into account the possible failure to reach an international agreement with mandatory reductions and possible alternatives to international agreements.*** ***The Commission*** should base its analysis on the assessment of the inability to pass on the cost of required allowances in product prices without significant loss of market share to installations outside the Community not taking comparable action to reduce emissions. Industries which are determined to be exposed to a significant risk of carbon leakage could receive a higher amount of free allocation or an

would need to be in conformity with the principles of the UNFCCC, in particular the principle of common but differentiated responsibilities and respective capabilities, taking into account the particular situation of Least Developed Countries. It would also need to be in conformity with the international obligations of the Community including the WTO agreement.

effective carbon equalisation system could be introduced with a view to putting installations from the Community which are at significant risk of carbon leakage and those from third countries on a comparable footing. Such a system could apply requirements to importers that would be no less favourable than those applicable to installations within the EU, for example by requiring the surrender of allowances. ***The Commission should monitor the potential effects on competitiveness and employment for EU-based producers using such products as inputs in their production process.*** Any action taken would need to be in conformity with the principles of the UNFCCC, in particular the principle of common but differentiated responsibilities and respective capabilities, taking into account the particular situation of Least Developed Countries. It would also need to be in conformity with the international obligations of the Community including the WTO agreement.

Justification

The report evaluating the situation and solutions proposed, where there is a significant danger of carbon leakage, must apply to all industrial sectors with particular emphasis on those consuming large amounts of energy given the legal imprecision of the term 'energy-intensive'.

Criteria for identification and classification of sectors affected by carbon leakage need to be done much sooner than proposed by the Commission in order to give predictability to the industries effected; the direct and indirect effects to EU-based producers must be taken into account.

Amendment 9

Proposal for a directive – amending act Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Allocation of quotas 100% free of charge will make the inclusion of imports in emission trading redundant. This

would guarantee compliance with undertakings adopted in the context of the WTO and should also mean that third countries do not introduce such protectionist measures. At the same time, it would help to improve the negotiating climate and increase acceptance of effective EU CO₂ reduction mechanisms.

Justification

The WTO requires the Community to guarantee non-discriminatory access to its markets. An allocation of quotas for energy intensive sectors 100% free of charge will make any discriminatory inclusion of imports redundant while at the same time countering any danger of possible protectionist measures on the part of Member States. The objective of establishing the most comprehensive emission trading system possible can only be achieved if the negotiating partners are fully satisfied convinced that the Community has no protectionist motives for introducing such a system.

Amendment 10

Proposal for a directive – amending act Recital 21

Text proposed by the Commission

(21) In order to ensure equal conditions of competition within the Community, the use of credits for emission reductions outside the Community to be used by operators within the Community scheme should be harmonised. The Kyoto Protocol to the UNFCCC sets out quantified emission targets for developed countries for the period 2008 to 2012, and provides for the creation of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) from Clean Development Mechanism (CDM) and Joint Implementation projects respectively and their use by developed countries to meet part of these targets. While the Kyoto framework does not enable ERUs to be created from 2013 onwards without new quantified emission targets being in place for host countries, CDM credits can potentially continue to be generated.

Amendment

(21) In order to ensure equal conditions of competition within the Community, the use of credits for emission reductions outside the Community to be used by operators within the Community scheme should be harmonised. The Kyoto Protocol to the UNFCCC sets out quantified emission targets for developed countries for the period 2008 to 2012, and provides for the creation of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) from Clean Development Mechanism (CDM) and Joint Implementation projects respectively and their use by developed countries to meet part of these targets. While the Kyoto framework does not enable ERUs to be created from 2013 onwards without new quantified emission targets being in place for host countries, CDM credits can potentially continue to be generated. *The*

Additional use of certified emission reductions (CERs) and emission reduction units (ERUs) should be provided for ***once there is*** an international agreement on climate change ***from countries which have concluded that agreement. In the absence of such agreement, providing for further use of CERs and ERUs would undermine this incentive and make it more difficult to achieve the objectives of the Community on increasing renewable energy use.*** The use of CERs and ERUs should be consistent with the goal set by the Community of generating 20% of energy from renewable sources by 2020, and promoting energy efficiency, innovation and technological development. Where it is consistent with achieving these goals, the possibility should be foreseen to conclude agreements with third countries to provide incentives for reductions in emissions in these countries which bring about real, additional reductions in greenhouse gas emissions while stimulating innovation by companies established within the Community and technological development in third countries. Such agreements may be ratified by more than one country. Upon the conclusion by the Community of a satisfactory international agreement, access to credits from projects in third countries should be increased simultaneously with the increase in the level of emission reductions to be achieved through the Community scheme.

use of certified emission reductions (CERs) and emission reduction units (ERUs) should be provided for ***even without*** an international agreement on climate change. The use of CERs and ERUs should be consistent with the goal set by the Community of generating 20% of energy from renewable sources by 2020, and promoting energy efficiency, innovation and technological development. Where it is consistent with achieving these goals, the possibility should be foreseen to conclude agreements with third countries to provide incentives for reductions in emissions in these countries which bring about real, additional reductions in greenhouse gas emissions while stimulating innovation by companies established within the Community and technological development in third countries. Such agreements may be ratified by more than one country. Upon the conclusion by the Community of a satisfactory international agreement, access to credits from projects in third countries should be increased simultaneously with the increase in the level of emission reductions to be achieved through the Community scheme. ***No credits should be available, however, in relation to CDM and JI projects in sectors exposed to carbon leakage.***

Justification

CDM-measures are making an effective contribution to climate protection in the developing countries. The participation of less developed countries in such projects is therefore, in any case, desirable with a view to achieving global CO₂ objectives. Accordingly, measures should be taken to ensure the widest possible participation of the developing countries in the CDM, which should not be restricted to possible partners to an international agreement. Participation by individual countries in CDM arrangements may facilitate their accession to an international agreement on climate protection.

Sectors exposed to carbon leakage should not be threatened by external competitors favoured

through CDM and JI credits.

Amendment 11

Proposal for a directive – amending act Recital 24

Text proposed by the Commission

(24) Least Developed Countries are especially vulnerable to the effects of climate change, and are responsible only for a very low level of greenhouse gas emissions. Therefore, particular priority should be given to addressing the needs of Least Developed Countries when revenues generated from auctioning are used to facilitate developing countries' adaptation to the impacts of climate change. Given that very few CDM projects have been established in those countries, it is appropriate to give certainty on the acceptance of credits from projects started there after 2012, even in the absence of an international agreement. This entitlement should apply to Least Developed Countries until 2020, ***provided that they have by then either ratified a global agreement on climate change or a bilateral or multilateral agreement with the Community.***

Amendment

(24) Least Developed Countries are especially vulnerable to the effects of climate change, and are responsible only for a very low level of greenhouse gas emissions. Therefore, particular priority should be given to addressing the needs of Least Developed Countries when revenues generated from auctioning are used to facilitate developing countries' adaptation to the impacts of climate change. Given that very few CDM projects have been established in those countries, it is appropriate to give certainty on the acceptance of credits from projects started there after 2012, even in the absence of an international agreement. This entitlement should apply to Least Developed Countries until 2020.

Justification

CDM-measures are making an effective contribution to climate protection in the developing countries. The participation of less developed countries in such projects is therefore, in any case, desirable with a view to achieving global CO₂ objectives. Accordingly, measures should be taken to ensure the widest possible participation of the developing countries in the CDM, which should not be restricted to possible partners to an international agreement. Participation by individual countries in CDM arrangements may facilitate their accession to an international agreement on climate protection.

Amendment 12

Proposal for a directive – amending act
Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

The Commission shall present an annual report to the European Parliament and the Council on the establishment and functioning of the revised EU Emissions Trading Scheme (EU ETS). The first such report shall be presented one year after the adoption of this Directive.

Justification

This process is a very complex one requiring permanent inter-institutional monitoring and evaluation.

Amendment 13

Proposal for a directive – amending act

Article 1 – point 2

Directive 2003/87/EC

Article 3 – paragraph b – point h

Text proposed by the Commission

Amendment

(h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emission permit subsequent to the submission to the Commission of the list referred to in Article 11(1);

(h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emission permit ***or an update of its greenhouse gas emission permit because of a significant change in the nature or functioning or a significant extension of the installation,*** subsequent to the submission to the Commission of the list referred to in Article 11(1);

Justification

In the current Commission proposal, capacity extensions are no longer defined as new entrants. This brings a difference, only allocating new installations with GHG credits, and leaving capacity expansions to auctioning. The Commission proposal brings uneven balance between new installations and capacity upgrades, not bringing the most efficient approach and potentially harming innovation in existing processes.

Amendment 14

Proposal for a directive – amending act

Article 1 - point 2

Directive 2003/87/EC

Article 3 – paragraph c – point u a (new)

Text proposed by the Commission

Amendment

[(ua)] Recovery operations as defined by Annex II B of Council Directive 91/156/EEC of 18 March 1991 amending Directive 75/442/EEC on waste are exempted from the definition of "combustion installation".

Justification

One of the aims of the EU Climate Package is to promote recycling. Hence, it does not make sense to include recycling operations in a scheme which will penalise it.

Amendment 15

Proposal for a directive

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. ***At least 20% of*** the revenues generated from the auctioning of allowances referred to in paragraph 2, ***including all revenues from the auctioning referred to in point (b) thereof, should*** be used for the following:

3. The revenues generated from the auctioning of allowances referred to in paragraph 2 ***shall*** be used for the following:

Justification

Given the severity and urgency of the problem, the full proceeds of auctioning allowances should be devoted to measures designed to reduce greenhouse gas emissions, develop renewable energy, combat deforestation, assist developing countries adapt to climate change and help lower income households improve the efficiency with which they use energy.

Amendment 16

Proposal for a directive – amending act

Article 1 - point 7

Directive 2003/87/EC

Article 10 – paragraph 3 – point g

Text proposed by the Commission

Amendment

(g) **to cover** administrative expenses **of the management of the Community scheme**.

(g) administrative expenses, to a limit of **10% of the revenue** generated.

Justification

The Commission proposes that only 20% of auctioning revenues be set aside to combat climate change which is obviously insufficient, especially if administrative costs are to be included in this sum. The coverage of national budgetary deficits should not be a major stimulus for auctioning.

Amendment 17

Proposal for a directive

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall include information on the use of revenues for each of these purposes in their reports submitted under Decision No 280/2004/EC.

4. Member States **shall decide, depending on their needs, on the allocation of proceeds to individual measures and** shall include information on the use of revenues for each of these purposes **and the geographical distribution of the use of revenues** in their reports submitted under Decision No 280/2004/EC, **focusing in particular on internal market, State aid and competition issues**.

The Commission shall report annually to the European Parliament on the use of revenue with focusing in particular on internal market, State aid and competition issues.

Justification

This process is a very complex one requiring permanent inter-institutional monitoring and evaluation. It is important to improve transparency, to allow compliance with the obligation

in Article 10 paragraph 3a to be assessed and to ensure that, taken as a whole, the Union's effort is being distributed effectively. Given that environmental policy is governed by the principle of shared competence, the Member States must be responsible for deciding on the allocation of the proceeds from the auctioning of allowances to individual measures to combat climate change.

Amendment 18

Proposal for a directive – amending act

Article 1 - point 7

Directive 2003/87/EC

Article 10 – paragraph 5

Text proposed by the Commission

5. **By 31 December 2010**, the Commission **shall adopt a Regulation on timing, administration and other aspects of auctioning** to ensure that **it is** conducted in an open, transparent and non-discriminatory manner. Auctions shall be designed to ensure that operators, and in particular any small and medium size enterprises covered by the Community scheme, have full access and any other participants do not undermine the operation of the auction. **That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].**

Amendment

5. **No later than 31 December 2009**, the Commission **shall submit to the European Parliament and the Council a report assessing the timing, administration and other aspects of auctioning, including, as appropriate, a proposal for a directive. That proposal shall aim** to ensure that **auctions are** conducted in an open, transparent and non-discriminatory manner **that minimises the scope for speculation**. Auctions shall be designed to ensure that operators, and in particular any small and medium-sized enterprises covered by the Community scheme, have full access and any other participants do not undermine the operation of the auction **or the climate change objectives that justify their adoption. The proposal shall therefore be sufficiently detailed, in relation to, inter alia, the timing and frequency of auctioning across Member States, and adequately framed, addressing the likely impacts of auctioning, in particular in relation to:**

- speculative moves,**
- cross-border competition effects,**
- cross-sectoral effects,**
- the competitiveness of EU business and industry, in particular small and medium-sized enterprises,**

- inflationary pressure, and
- socio-economic effects.

The practical functioning of auctioning is an essential component of the revised EU ETS proposal and shall therefore be subject to the codecision procedure.

Justification

The Commission proposes to deal with a crucial element of the extended ETS in comitology. It is essential that the Commission come forward with a proposal for co-decision.

Amendment 19

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

deleted

Justification

The Commission proposes to deal with a crucial element of the extended ETS in comitology. It is essential that the Commission come forward with a proposal for co-decision.

Amendment 20

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 3

Text proposed by the Commission

Amendment

The measures referred to in the first subparagraph shall, ***to the extent feasible***, ensure that allocation takes place in a manner that gives incentives for

The measures referred to in the first subparagraph shall ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy

greenhouse gas and energy efficient techniques and for reductions in emissions, by taking account of the most efficient techniques, substitutes, alternative production processes, use of biomass and greenhouse gas capture and storage, and shall not give incentives to increase emissions. No free allocation shall be made in respect of any electricity production.

efficient techniques and for reductions in emissions, by ***using sectoral benchmarks and*** taking account of the most efficient techniques, substitutes, alternative production processes, use of biomass, ***cogeneration*** and greenhouse gas capture and storage, and shall not give incentives to increase emissions. No free allocation shall be made in respect of any electricity production, ***with the exception of electricity produced from waste gases from industrial production processes, for the own consumption of the operator of these production processes, in which case allocation to this operator shall be made according to the sectoral benchmarks agreed upon for these production processes.***

The Commission shall ensure that no unnecessary costs are passed on to the end consumer.

Justification

The use of waste gases from the production process for the generation of electricity contributes to the conservation of resources and reduction of CO₂ emissions. Electricity produced under these special circumstances should be excluded from auctioning, and included by the same allocation methodology as applied to respective installations of the producer of these gases. This corresponds with the main content of point 92 of the Commission Communication COM(2008)830.

The electricity production sector cannot be excluded from its own climate efforts by a generalised passing-on of costs.

Amendment 21

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 3

Text proposed by the Commission

3. Free allocation ***may*** be given to electricity generators in respect of the production of heat through high efficiency co-generation as defined by Directive

Amendment

3. Free allocation ***shall*** be given to electricity generators in respect of the production of heat through high efficiency co-generation as defined by Directive

2004/8/EC for economically justifiable demand to ensure equal treatment with regard to other producers of heat. ***In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 9.***

2004/8/EC for economically justifiable demand ***on the basis of uniform Community benchmarks*** to ensure equal treatment with regard to other producers of heat. ***These benchmarks shall be established and monitored in accordance with a harmonised procedure.***

Justification

Electricity production in co-generation plants is the most efficient form of energy production. Further measures to promote it should therefore be guaranteed after 2013 also. Free allocation of emission quotas will help to achieve this objective.

Amendment 22

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 6 – subparagraph 3

Text proposed by the Commission

No free allocation shall be made in respect of any electricity production by new entrants.

Amendment

No free allocation shall be made in respect of any electricity production by new entrants ***with the exception of electricity produced from waste gases from industrial production processes for the own consumption of the operator of these production processes, in which case allocation to this operator shall be made according to the sectoral benchmarks agreed upon for these production processes.***

Justification

The use of waste gases from the production process for the generation of electricity contributes to the conservation of resources and reduction of CO2 emissions. Electricity produced under these special circumstances should be excluded from auctioning, and included by the same allocation methodology as applied to respective installations of the producer of these gases. This corresponds with the main content of point 92 of the Commission Communication COM(2008)830.

Amendment 23

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 7

Text proposed by the Commission

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be **80% of** the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020.

Amendment

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be the quantity determined in accordance with the measures referred to in paragraph 1, **taking into account, if appropriate, the outcome of international negotiations**, and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020.

Justification

The way that the Commission is proposing to deal with EU-based energy-intensive industries vulnerable to carbon leakage depends on the outcome of international negotiations. The Commission needs to determine, along with these industries, the acceptable targets for GHG reductions at EU and international level leading to real quantifiable and verifiable reductions in the EU as well as abroad.

Amendment 24

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 1

Text proposed by the Commission

At the latest by 30 **June** 2010 and every **3** years thereafter the Commission shall determine the sectors referred to in paragraph 8.

Amendment

At the latest by 30 **January** 2010 and every **4** years thereafter, the Commission shall determine the sectors referred to in paragraph 8.

Justification

Sectors considered vulnerable to "carbon leakage" and the appropriate actions should be decided upon as soon as possible. A reassessment of the sectors concerned every 3 years will unnecessarily lead to uncertainty which is detrimental for investment.

Amendment 25

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 2

Text proposed by the Commission

Amendment

That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

deleted

Justification

This process is a very complex one requiring permanent inter-institutional monitoring and evaluation.

Amendment 26

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 2a (new)

Text proposed by the Commission

Amendment

Each year, on the basis of new market information, any sector not included in Annex I shall be able to request the Commission to reassess its vulnerability to carbon leakage.

Amendment 27

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3

Text proposed by the Commission

Amendment

In the determination referred to in the first subparagraph the Commission shall take

In the determination referred to in the first subparagraph the Commission shall take

into account the extent to which it is possible for the sector or sub-sector concerned to pass on the cost of the required allowances *in* product prices without significant loss of ***market share to less carbon efficient installations outside the Community***, taking into account the following:

into account the extent to which it is possible for the sector or sub-sector concerned to pass on the cost of the required allowances ***through*** product prices without significant loss of ***its international competitive position***, taking into account the following:

Amendment 28

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point c

Text proposed by the Commission

(c) market structure, relevant geographic and product market, the exposure of the sectors to international competition;

Amendment

(c) ***the present and projected*** market structure, relevant geographic and product market, ***employment and economic relevance***, the exposure of the sectors to international competition, ***taking into account transport costs***;

Amendment 29

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point da (new)

Text proposed by the Commission

Amendment

(da) direct and indirect impacts of the forecasted increase in energy prices as well as in certain raw materials due to climate policy;

Amendment 30

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point db (new)

Text proposed by the Commission

Amendment

(db) collateral social effects of passing costs on to the end consumer.

Amendment 31

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 4

Text proposed by the Commission

Amendment

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the increased carbon price or the impact on the profitability of the ***installations*** concerned may inter alia be used.

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the increased carbon price or the impact on the profitability of the ***sectors or sub-sectors*** concerned may inter alia be used.

Justification

Throughout the proposal the Commission refers to the sectors and sub-sectors vulnerable to carbon leakage therefore it makes sense to keep the same terminology throughout so as not to create confusion.

Amendment 32

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10b – paragraph 1

Text proposed by the Commission

Amendment

Not later than ***June 2011***, the Commission shall, in the light of the outcome of the international negotiations and the extent to which ***these lead to global greenhouse gas emission reductions, and after consulting with all relevant social partners, submit to the European Parliament and to the Council an analytical report assessing the***

Not later than ***January 2010***, the Commission shall, in light of the outcome of the international negotiations and the extent to which ***the resulting agreement complies with the criteria set out in Annex Ia (new), submit to the European Parliament and to the Council a proposal for the sectors or sub-sectors to be***

situation with regard to energy-intensive sectors or sub-sectors that have been determined to be exposed to significant risks of carbon leakage. This shall be accompanied by any appropriate proposals, which may include:

considered at risk of carbon leakage. Such sectors or sub-sectors shall be identified in consultation with the social partners, affected stakeholders and the European Parliament taking into account the potential failure to reach an international agreement containing mandatory reductions.

Justification

The dates need to be brought forward in order to provide predictability for industries affected by carbon leakage.

An eventual international agreement needs to be quantifiable and verifiable and bring equivalent emissions reductions as proposed by the Commission.

The Parliament and the Council need to be informed and give their assent on the Commission's proposal and the identification of carbon leakage sectors and sub-sectors needs to be done in consultation with the interested parties.

Amendment 33

Proposal for a directive – amending act

Article 1 - point 8

Directive 2003/87/EC

Article 10b – paragraph 2

Text proposed by the Commission

***Any** binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall **also** be **taken into account** when considering what measures are appropriate.*

Amendment

Binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall be **decisive** when considering what measures are appropriate **as well as the sectors or sub-sectors which are identified as being exposed to significant risk of carbon leakage under Article [10a(8) and (9)] of this Directive.**

Amendment 34

Proposal for a directive – amending act

Article 1 - point 9

Directive 2003/87/EC

Article 11 – paragraph 2 – subparagraph 2

Text proposed by the Commission

An installation which ceases to operate shall receive no further free allowances.

Amendment

An installation which ceases to operate shall receive no further free allowances **and shall surrender any remaining allowances, or an equivalent amount, to the competent authorities. The Commission shall ensure that national implementation and that the State aid and competition rules are applied vigorously, in particular to prevent abuses of dominant positions. To this end, the Commission shall, every three months, publish the end consumer price of energy products disaggregated by company, sector and Member State. The EU ETS component of the end consumer price shall be separately identified in the Commission's publication of prices.**

Justification

Any installation that ceases to operate and had received free allowances will not be allowed to sell the remaining allowances on to the market but will instead give them back to the Member State, this will guarantee that there will be no abuse of the system.

The Commission must also ensure that State Aid and competition rules are vigorously applied and monitored.

All parties involved (from industry to end consumer) will require price transparency at all times in order to avoid market distortion, therefore the Commission should publish, on a regular basis, the end consumer price of energy products.

Amendment 35

Proposal for a directive – amending act

Article 1 - point 9

Directive 2003/87/EC

Article 11a – paragraph 1

Text proposed by the Commission

1. Until a future international agreement on climate change **has** entered into force, and in advance of the application of paragraphs 3 and 4 of Article 28, paragraphs 2 to 7 of this Article shall apply.

Amendment

1. Until a future international agreement on climate change **or any international sectoral agreement has** entered into force, and in advance of the application of paragraphs 3 and 4 of Article 28, paragraphs 2 to 7 of this Article shall apply. **CDM and JI credits from projects in sectors exposed to carbon leakage shall, however, be excluded from such application.**

Justification

It is important to try not only to achieve a global international agreement but also international sectoral agreements, especially with emerging economies such as China and India in order to achieve quantifiable and verifiable emission reductions.

Sectors exposed to carbon leakage should not be threatened by external competitors favoured through CDM and JI credits.

Amendment 36

Proposal for a directive – amending act

Article 1 - point 9

Directive 2003/87/EC

Article 11a – paragraph 7

Text proposed by the Commission

7. Once an international agreement on climate change has been reached, only CERs from third countries which have ratified that agreement shall be accepted in the Community scheme.

Amendment

7. Once an international agreement **or international sectoral agreements** on climate change has been reached, only CERs from third countries which have ratified that agreement shall be accepted in the Community scheme.

Justification

It is important to try not only for a global international agreement but also to secure international sectoral agreements, especially with emerging economies such as China and India.

Amendment 37

Proposal for a directive – amending act
Article 1 - point 10
Directive 2003/87/EC
Article 11b

Text proposed by the Commission

The Community and its Member States shall only authorise project activities where all project participants have headquarters either in a country that has concluded the international agreement relating to such projects or in a country or sub-federal or regional entity which is linked to the Community scheme pursuant to Article 25.

Amendment

The Community and its Member States shall only authorise project activities where all project participants have headquarters either in a country that has concluded the international agreement relating to such projects or in a country or sub-federal or regional entity which is linked to the Community scheme pursuant to Article 25.
CDM and JI credits from projects in sectors exposed to carbon leakage shall be excluded.

Justification

Sectors exposed to carbon leakage should not be threatened by external competitors favoured through CDM and JI credits.

Amendment 38

Proposal for a directive – amending act
Article 1 - point 12
Directive 2003/87/EC
Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The Commission shall adopt a Regulation for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I which shall be based on the principles for monitoring and reporting set out in Annex IV and shall specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.

Amendment

1. The Commission shall, ***no later than 31 December 2011***, adopt a Regulation for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I which shall be based on the principles for monitoring and reporting set out in Annex IV and shall specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.

Justification

It is necessary to set a date in order to have predictability in the system.

Amendment 39

Proposal for a directive – amending act

Article 1 - point 12

Directive 2003/87/EC

Article 14 – paragraph 2

Text proposed by the Commission

2. The Regulation **may** take into account the most accurate and up-to-date scientific evidence available, in particular from the IPCC, and **may** also specify requirements for operators to report on emissions associated with the production of goods produced by energy intensive industries which may be subject to international competition, and for this information to be verified independently.

Those requirements **may** include reporting on levels of emissions from electricity generation covered by the Community scheme associated with the production of such goods.

Amendment

2. The Regulation **shall** take into account the most accurate and up-to-date scientific evidence available, in particular from the IPCC, and **shall** also specify requirements for operators to report on emissions associated with the production of goods produced by energy intensive industries which may be subject to international competition, and for this information to be verified independently. ***The Regulation shall also specify the reporting requirements for financial institutions involved in emissions trading.***

Those requirements **shall** include reporting on levels of emissions from electricity generation covered by the Community scheme associated with the production of such goods.

Justification

The financial institutions involved in auctioning need to have clear rules of procedure.

Amendment 40

Proposal for a directive – amending act

Article 1 - point 13

Directive 2003/87/EC

Article 15 – point b – subparagraph 1

Text proposed by the Commission

The Commission shall adopt a Regulation

Amendment

The Commission shall, ***no later than 30***

for the verification of emission reports and the accreditation of verifiers specifying conditions for the accreditation, mutual recognition and withdrawal of accreditation for verifiers, and for supervision and peer evaluation as appropriate.

June 2010, adopt a Regulation for the verification of emission reports and the accreditation of verifiers specifying conditions for the accreditation, mutual recognition and withdrawal of accreditation for verifiers, and for supervision and peer evaluation as appropriate.

Justification

The date needs to be specified in order to allow for the predictability needed by the interested parties.

Amendment 41

Proposal for a directive – amending act

Article 1 - point 19

Directive 2003/87/EC

Article 24a – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. In addition to the inclusions provided for in Article 24, the Commission may adopt implementing measures for issuing allowances in respect of projects administered by Member States that reduce greenhouse gas emissions outside of the Community scheme.

Amendment

1. In addition to the inclusions provided for in Article 24, the Commission may adopt implementing measures for issuing allowances in respect of projects administered by Member States that reduce greenhouse gas emissions outside of the Community scheme. ***The Commission shall exclude CDM and JI credits from projects in sectors exposed to carbon leakage.***

Justification

Sectors exposed to carbon leakage should not be threatened by external competitors favoured through CDM and JI credits.

Amendment 42

Proposal for a directive – amending act

Article 1 - point 21

Directive 2003/87/EC

Article 27

1. Member States may exclude, from the Community scheme, combustion installations which have a rated thermal input below **25MW**, reported emissions to the competent authority of less than **10 000** tonnes of *carbon dioxide* equivalent, excluding emissions from biomass, in each of the preceding 3 years, 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 that are in place,
- (b) it confirms that monitoring arrangements are in place to assess whether any installation emits **10 000** tonnes or more of *carbon dioxide* equivalent, excluding emissions from biomass, in any one calendar year;
- (c) it confirms that if any installation emits **10 000** tonnes or more of *carbon dioxide* equivalent, excluding emissions from biomass, in any one calendar year or the equivalent measures are no longer in place, the installation will be re-introduced into the system;
- (d) it publishes the information referred to in points (a), (b) and (c) for public comment.

1. Member States may exclude, from the Community scheme, combustion installations which have a rated thermal input below **50MW**, reported emissions to the competent authority of less than **25 000** tonnes of *CO₂* equivalent, excluding ***unavoidable CO₂ emissions from raw materials and*** emissions from biomass, in each of the preceding 3 years, 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 that are in place,
- (b) it confirms that monitoring arrangements are in place to assess whether any installation emits **25 000** tonnes or more of *CO₂* equivalent, excluding ***unavoidable CO₂ emissions from raw materials and*** emissions from biomass, in any one calendar year;
- (c) it confirms that if any installation emits **25 000** tonnes or more of *CO₂* equivalent, excluding ***inevitable CO₂ from raw materials and*** emissions from biomass, in any one calendar year or the equivalent measures are no longer in place, the installation will be re-introduced into the system;
- (d) it publishes the information referred to in points (a), (b) and (c) for public comment.

Justification

Small installations should have the possibility to "opt-out" from the system if equivalent measures are in place in order to reduce the administrative burden on small and medium-sized enterprises (SMEs), to avoid unnecessary administrative costs and bureaucracy and to enhance the efficiency of the system. One third of total installations that are covered by the scheme are small installations that together account for only 2% of the overall emissions reported.

Amendment 43

Proposal for a directive – amending act

Article 1 - point 21

Directive 2003/87/EC

Article 28 – title

Text proposed by the Commission

Adjustments applicable upon the conclusion of a future international agreement on climate change

Amendment

Adjustments applicable upon the conclusion of a future international agreement ***or of international sectoral agreements*** on climate change

Justification

It is important to try not only to achieve a global international agreement but also to secure international sectoral agreements, especially with emerging economies such as China and India in order to achieve quantifiable and verifiable emission reductions.

Amendment 44

Proposal for a directive – amending act

Article 1 - point 21

Directive 2003/87/EC

Article 28 – paragraph 1

Text proposed by the Commission

1. Upon the conclusion by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding the minimum reduction levels agreed upon by the European Council, paragraphs 2, 3 and 4 shall apply.

Amendment

1. Upon the conclusion by the Community of an international agreement ***or of international sectoral agreements*** on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding the minimum reduction levels agreed upon by the European Council, paragraphs 2, 3 and 4 shall apply.

Justification

It is important to try not only to achieve a global international agreement but also to secure international sectoral agreements, especially with emerging economies such as China and India in order to achieve quantifiable and verifiable emission reductions.

Amendment 45

Proposal for a directive – amending act

Article 1 - point 21

Directive 2003/87/EC

Article 28 – paragraph 2

Text proposed by the Commission

2. From the year following the conclusion of the international agreement referred to in paragraph 1, the linear factor shall increase so that the Community quantity of allowances in 2020 is lower than that established pursuant to Article 9, by a quantity of allowances equivalent to the overall reduction of greenhouse gas emissions by the Community below 20% to which the international agreement commits the Community, multiplied by the share of overall greenhouse gas emission reductions in 2020 which the Community scheme is contributing pursuant to Articles 9 and 9a.

Amendment

2. From the year following the conclusion of the international agreement **or of international sectoral agreements** referred to in paragraph 1, the linear factor shall increase so that the Community quantity of allowances in 2020 is lower than that established pursuant to Article 9, by a quantity of allowances equivalent to the overall reduction of greenhouse gas emissions by the Community below 20% to which the international agreement commits the Community, multiplied by the share of overall greenhouse gas emission reductions in 2020 which the Community scheme is contributing pursuant to Articles 9 and 9a.

Justification

It is important to try not only to achieve a global international agreement but also to secure international sectoral agreements, especially with emerging economies such as China and India in order to achieve quantifiable and verifiable emission reductions.

Amendment 46

Proposal for a directive – amending act

Article 1 - point 21

Directive 2003/87/EC

Article 28 – paragraph 3

Text proposed by the Commission

3. Operators may use CERs, ERUs or other credits approved in accordance with paragraph 4 from third countries which have concluded the international agreement, up to half of the reduction taking place in accordance with paragraph 2.

Amendment

3. Operators may use CERs, ERUs or other credits, **excluding CDM and JI credits from sectors exposed to carbon leakage**, approved in accordance with paragraph 4 from third countries which have concluded the international agreement, up to half of the reduction taking place in accordance with paragraph 2.

Justification

Sectors exposed to carbon leakage should not be threatened by external competitors favoured through CDM and JI credits.

Amendment 47

Proposal for a directive – amending act

Annex I – point 2

Directive 2003/87/EC

Annex I – Point 2

Text proposed by the Commission

Amendment

2. In point 2 the following sentence is added: **deleted**

'When calculating the total capacity of combustion installations, units with a rated thermal input under 3 MW shall not be taken into account for the purposes of this calculation.'

Justification

The objective of Article 27 seeking to exclude small installations would be impossible to achieve because of the accumulation of interconnected small installations for the purposes of calculating total emissions.

Amendment 48

Proposal for a directive – amending act

Annex I a (new)

Text proposed by the Commission

Amendment

ANNEX IA MINIMUM REQUIREMENTS FOR AN INTERNATIONAL AGREEMENT

An international agreement including energy-intensive industries exposed to a significant risk of carbon leakage, or a sectoral international agreement on such industries, must comply with at least the following criteria in order to provide a level playing field for such industries:

- (i) involve the participation of countries representing a critical mass of at least 85% of production,*
- (ii) contain equivalent CO₂ emission targets,*
- (iii) include similar emission reductions systems with equivalent effect imposed by all participating countries or from countries with non-equivalent CO₂ emission targets in sectors covered by the EU ETS,*
- (iv) ensure that competing materials must be subject to equivalent restrictions taking into account life cycles,*
- (v) provide for an effective international monitoring and verification system.*

Justification

In line with amendment to Article 10b.

PROCEDURE

Title	Greenhouse gas emission allowance trading system		
References	COM(2008)0016 – C6-0043/2008 – 2008/0013(COD)		
Committee responsible	ENVI		
Opinion by Date announced in plenary	INTA 19.2.2008		
Drafts(wo)man Date appointed	Corien Wortmann-Kool 9.9.2008		
Previous drafts(wo)man	Jens Holm		
Discussed in committee	27.3.2008	23.6.2008	24.6.2008
Date adopted	9.9.2008		
Result of final vote	+: 22 -: 3 0: 2		
Members present for the final vote	Carlos Carnero González, Daniel Caspary, Françoise Castex, Christofer Fjellner, Béla Glattfelder, Ignasi Guardans Cambó, Jacky Hénin, Alain Lipietz, Erika Mann, Helmuth Markov, David Martin, Vural Öger, Georgios Papastamkos, Godelieve Quisthoudt-Rowohl, Peter Šťastný, Robert Sturdy, Gianluca Susta, Daniel Varela Suanzes-Carpegna, Corien Wortmann-Kool		
Substitute(s) present for the final vote	Jean-Pierre Audy, Albert Deß, Elisa Ferreira, Vasco Graça Moura, Eugenijus Maldeikis, Rovana Plumb, Salvador Domingo Sanz Palacio, Zbigniew Zaleski		

11.9.2008

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community
(COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))

Rapporteur: Elisa Ferreira

SHORT JUSTIFICATION

The EU objective of a 30% reduction in greenhouse gas emissions (GHG) by 2020 can be fully subscribed, provided that other developed parts of the world and economically more advanced developing countries commit themselves to comparable proportionate emission reductions. The commitment of at least a 20% reduction of GHG emissions by 2020, irrespective of any international agreement can also be subscribed.

The EU has developed the Emissions Trading System (EU ETS) as the cornerstone of its strategy for reducing greenhouse gasses (GHGs) in a cost-effective and economically efficient manner. A market based instrument is an invaluable tool and the creation by Europe of the largest world carbon market, as well as the attribution of a cost to carbon is a sign of its enormous potential. However, based on past experience, it is acknowledged that there is room for improvement of the ETS Directive, in such a way that the present proposal for amending and extending the Emission Trading Scheme is welcome.

The quality of the Commission's proposal must be underlined; moving to an EU wide cap on allowances will improve the EU ETS consistency and predictability while answering serious competition concerns of the existing system. Auctioning is a rational and transparent way to allocate responsibilities. The Commissions proposal to clarify the criteria for the use of CDMs and JIs credits must also be welcomed.

On possible margins for improvement of the present proposal:

It is considered that the EU ETS should be set up in such a way that it will allow it to link with a global system of emissions trading in case there will be an international agreement.

However, it is equally important that the scheme can operate in the absence of an international agreement.

In the absence of international binding agreements, that include sectoral quantifiable compromises, the risk of "carbon leakage", (i.e. the relocation of GHG emitting activities from the EU to third countries), thereby increasing global emissions and jeopardizing EU based economic activities is a major problem requiring an adequate solution.

The classification of industries in terms of vulnerability to carbon leakage is a complex and critical procedure; it should be done in full transparency in the shortest time so as to increase predictability for the industry; direct and indirect impact of expected rise in the price of inputs must be also taken into account. Free allowances should be associated with clear benchmarks in all those circumstances where international agreements do not guarantee the competitive neutrality of auctioning. This classification needs to be done in consultation with the European Parliament, the council and the sectors and sub-sectors involved.

The principle behind the auctioning of allowances by Member States to the highest bidders, including the financial sector, is still unclear and requires clarification in a detailed way; in spite of the obvious interest of this new market opportunity to operators in the financial markets, the overall objective of reducing GHGs must be kept in sight, namely in what concerns its accessibility at adequate prices to the primary operators (CO₂ emitters). The practical functioning of auctioning is an essential component of the revised ETS proposal and must therefore be subject to co-decision procedure.

Similarly, the interesting revenue expected by Member States from auctioning must be seen not as a new source of revenue for current deficit coverage but rather as a new strategic opportunity to support sustainable development, mitigation efforts, technology innovation and research as well as assistance to developing countries, in particular LDCs, in the adaptation process. Such priorities will require due transparency towards the EP and citizens and a very particular control in what concerns competition and state aid issues.

Furthermore, the experiences from the first two phases show the propensity for end-consumers to be charged with the major burden of the costs of several industries, energy in particular. Full auctioning in the energy sector will require adequate control as well real internal reduction efforts by energy producers. The estimated risk that energy prices will increase for the end-consumer raises serious concerns both for their contribution to inflationary pressures inside Europe, social and economic impacts to the lower and middle income households, and their indirect impact in overall costs for energy users in economic sectors.

AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive – amending act Recital 3

Text proposed by the Commission

(3) The European Council has made a firm commitment to reduce the overall greenhouse gas emissions of the Community by at least 20 % below 1990 levels by 2020, and by 30 % provided that other developed countries commit themselves to comparable emission reductions and economically more advanced developing countries contribute adequately according to their responsibilities and respective capabilities. By 2050, global greenhouse gas emissions should be reduced by at least 50 % below their 1990 levels. All sectors of the economy should contribute to achieving these emission reductions.

Amendment

(3) The European Council has made a firm commitment to reduce the overall greenhouse gas emissions of the Community by at least 20 % below 1990 levels by 2020, and by 30 % provided that other developed countries commit themselves to comparable emission reductions and economically more advanced developing countries contribute adequately according to their responsibilities and respective capabilities. By 2050, global greenhouse gas emissions should be reduced by at least 50 % below their 1990 levels. All sectors of the economy should contribute to achieving these emission reductions, ***including international aviation, maritime transport and cement industries. International maritime transport emissions should be incorporated into the EU Emissions Trading System (EU ETS) by 2015 or should otherwise be included in any decision 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.***

Amendment 2

Proposal for a directive – amending act Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Growing trees and wood and its derivatives, are a major source of carbon capture and storage. In addition, timber

combats the greenhouse effect by substituting fossil fuel. Forests are thus real natural reserves of carbon. That carbon is released into the atmosphere when forests are pulled up and burned, however. It is therefore important to introduce forest protection mechanisms in order to reduce climate change.

Justification

It is calculated that land use modification (for example deforestation in tropical environments) is responsible for 20% of the world's greenhouse gas emissions. Deforestation itself is said to account for annual worldwide emissions of greenhouse gases amounting to a CO₂ equivalent of 6 billion tonnes.

For France alone storage itself represents 15.6 million tonnes of carbon, capturing 10% of greenhouse gas emissions. Substitution is estimated at 14 million tonnes of carbon. Without forests and wood, France would emit an additional 108 million tonnes of carbon i.e. around 20% more.

Amendment 3

Proposal for a directive – amending act Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) With regard to the major potential of the forest sector for reducing global warming, incentives should be provided to improve and develop the sector while respecting the other purposes of forests.

Justification

The IPCC 2007 report indicates that, in the long term it is the sustainable development of forests seeking to maintain or increase carbon storage in forests by producing timber, pulp wood, and dendroenergy which will provide the greatest benefits in terms of attenuation. This is also the objective sought in the European Parliament resolution of 15 November 2007 calling on the Commission to include certain forestry activities in the ETS.

Amendment 4

Proposal for a directive – amending act Recital 15

Text proposed by the Commission

(15) Given the considerable efforts of combating climate change and of adapting to its inevitable effects, it is appropriate that at least **20 %** of the proceeds from the auctioning of allowances should be used to reduce greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for reducing emissions and adaptation, to develop renewable energies to meet the EU's commitment to using 20 % renewable energies by 2020, to meet the commitment of the Community to increase energy efficiency by 20 % by 2020, for the capture and geological storage of greenhouse gases, to contribute to the Global Energy Efficiency and Renewable Energy Fund , for measures to avoid deforestation and facilitate adaptation in developing countries, and for addressing social aspects such as possible increases in electricity prices in lower and middle income households. This proportion is significantly below the expected net revenues for public authorities from auctioning, taking into account potentially reduced income from corporate taxes. In addition, proceeds from auctioning of allowances should be used to cover administrative expenses of the management of the Community scheme. Provisions should be included on monitoring the use of funds from auctioning for these purposes. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty.

Amendment

(15) Given the considerable efforts of combating climate change and of adapting to its inevitable effects, it is appropriate that at least **90 %** of the proceeds from the auctioning of allowances should be used to reduce greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development ***of the sectors within the scope of this Directive*** for reducing emissions and adaptation, to develop renewable energies to meet the EU's commitment to using 20 % renewable energies by 2020, to meet the commitment of the Community to increase energy efficiency by 20 % by 2020, for the capture and geological storage of greenhouse gases, to contribute to the Global Energy Efficiency and Renewable Energy Fund , for measures to avoid deforestation and facilitate adaptation in developing countries, and for addressing social aspects such as possible increases in electricity prices in lower and middle income households. This proportion is significantly below the expected net revenues for public authorities from auctioning, taking into account potentially reduced income from corporate taxes. In addition, proceeds from auctioning of allowances should be used to cover administrative expenses of the management of the Community scheme. Provisions should be included on monitoring the use of funds from auctioning for these purposes. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be

undertaken in accordance with Articles 87 and 88 of the Treaty.

Amendment 5

Proposal for a directive – amending act Recital 16

Text proposed by the Commission

(16) Consequently, full auctioning should be the rule from 2013 onwards for the power sector, taking into account their ability to pass on the increased cost of CO₂, and no free allocation should be given for carbon capture and storage as the incentive for this arises from allowances not being required to be surrendered in respect of emissions which are stored. Electricity generators may receive free allowances for heat produced through high efficiency cogeneration as defined by Directive 2004/8/EC in the event that such heat produced by installations in other sectors were to be given free allocations, in order to avoid distortions of competition.

Amendment

(16) Consequently, full auctioning should be the rule from 2013 onwards for the power sector, taking into account their ability to pass on the increased cost of CO₂, and no free allocation should be given for carbon capture and storage as the incentive for this arises from allowances not being required to be surrendered in respect of emissions which are stored. Electricity generators may receive free allowances for heat produced through high efficiency cogeneration as defined by Directive 2004/8/EC in the event that such heat produced by installations in other sectors were to be given free allocations, in order to avoid distortions of competition. ***Electricity sector production should, nevertheless, continue with serious internal emission reduction efforts. Any passing on of costs will have to be evaluated and analysed, in particular with regard to its contribution to inflationary pressures within the European Union, social and economic impacts on lower and middle income households, and their indirect impact in overall costs for energy users in economic sectors. Competition authorities should be particularly vigilant in regulating abuses of market power through excessive and/or imbalanced energy price increases.***

Amendment 6

Proposal for a directive – amending act
Recital 17

Text proposed by the Commission

(17) For other sectors covered by the Community scheme, a transitional system should be foreseen for which **free** allocation in 2013 would be 80 % of the amount that corresponded to the percentage of the overall Community-wide emissions throughout the period 2005 to 2007 that those installations emitted as a proportion of the annual Community-wide total quantity of allowances. Thereafter, the free allocation should decrease each year by equal amounts resulting in no free allocation in 2020.

Amendment

(17) For other sectors covered by the Community scheme, **100 % of the allowances should be allocated free of charge in the event that there is no effective and verifiable international agreement and/or international sectoral agreement in place. In the event that there is such an agreement,** a transitional system should be foreseen for which allocation in 2013 would be 80 % of the amount that corresponded to the percentage of the overall Community-wide emissions throughout the period 2005 to 2007 that those installations emitted as a proportion of the annual Community-wide allowances. Therefore the free allocation should decrease each year by equal amounts resulting in no free allocation in 2020.

Justification

Idem as recital 13. Given that the stated objective of the ETS is to reduce carbon emissions at the lowest cost to the economy (Recital 1), free allocation is the most efficient allocation method for the industry with the exception of power generating sector. The only advantage of auctioning is that it expands the system to CO₂-free technologies that are not included in the ETS, such as nuclear, hydro, and wind power generation. Auctioning may therefore have its merits with respect to the power industry, but is less efficient for other industry sectors.

Amendment 7

Proposal for a directive – amending act
Recital 18

Text proposed by the Commission

(18) Transitional free allocation to installations should be provided for through harmonised Community-wide rules ("**benchmarks**") in order to minimise distortions of competition with the Community. These rules should take account of the most greenhouse gas and

Amendment

(18) Transitional free allocation to installations should be provided for through harmonised Community-wide rules **and sectoral benchmarks** in order to minimise distortions of competition with the Community. These rules **and benchmarks** should take account of the

energy efficient techniques, substitutes, alternative production processes, use of biomass, renewables and greenhouse gas capture and storage. Any such rules should not give incentives to increase emissions and ensure that an increasing proportion of these allowances is auctioned. Allocations must be fixed prior to the trading period so as to enable the market to function properly. They shall also avoid undue distortions of competition on the markets for electricity and heat supplied to industrial installations. These rules should apply to new entrants carrying out the same activities as existing installations receiving transitional free allocations. To avoid any distortion of competition within the internal market, no free allocation should be made in respect of the production of electricity by new entrants. Allowances which remain in the set aside for new entrants in 2020 should be auctioned.

most greenhouse gas and energy efficient techniques, substitutes, alternative production processes, use of biomass, renewables, **cogeneration** and greenhouse gas capture and storage. Any such rules should not give incentives to increase emissions and ensure that an increasing proportion of these allowances is auctioned. Allocations must be fixed prior to the trading period so as to enable the market to function properly. They shall also avoid undue distortions of competition on the markets for electricity and heat supplied to industrial installations. These rules should apply to new entrants carrying out the same activities as existing installations receiving transitional free allocations. To avoid any distortion of competition within the internal market, no free allocation should be made in respect of the production of electricity by new entrants **with the exception of electricity produced from waste gases for own consumption from industrial production processes**. Allowances which remain in the set aside for new entrants in 2020 should be auctioned.

Justification

Until a real quantifiable and verifiable international agreement is achieved the Commission has to allow for free allocation of allowances for industries at risk of carbon leakage and this allocation should be done not only through harmonised Community-wide rules but, more importantly, through sectoral benchmarks previously discussed with the sectors involved.

Cogeneration is an energy efficient production process and should be not be excluded from this list.

Waste gases resulting from production processes have to be used immediately after their generation. To ensure their efficient recovery maximum flexibility for the use of these gases must be allowed. The use of waste gases from production processes for the generation of electricity contributes to the conservation of resources and reduction of CO₂ emissions. Electricity produced under these special circumstances should be excluded from auctioning.

Amendment 8

Proposal for a directive – amending act Recital 19

Text proposed by the Commission

(19) The Community will continue to take the lead in the negotiation of an ambitious international agreement that will achieve the objective of limiting global temperature increase to 2°C and is encouraged by the progress made in Bali towards this objective. In the event that other developed countries and other major emitters of greenhouse gases do not participate in this international agreement, this could lead to an increase in greenhouse gas emissions in third countries where industry would not be subject to comparable carbon constraints (“carbon leakage”), and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage. This could undermine the environmental integrity and benefit of actions by the Community. To address the risk of carbon leakage, the Community will allocate allowances free of charge up to 100 % to sectors or sub-sectors meeting the relevant criteria. The definition of these sectors and sub-sectors and the measures required will be subject to re-assessment to ensure that action is taken where necessary and to avoid overcompensation. For those specific sectors or sub-sectors where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently, the action taken may take into account the electricity consumption in the production process, without changing the total quantity of allowances.

Amendment

(19) The Community will continue to take the lead in the negotiation of an ambitious international agreement **and/or international sectoral agreements** that will achieve the objective of limiting global temperature increase to 2°C and is encouraged by the progress made in Bali towards this objective. In the event that other developed countries and other major emitters of greenhouse gases do not participate in this international agreement, this could lead to an increase in greenhouse gas emissions in third countries where industry would not be subject to comparable carbon constraints (“carbon leakage”), and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage. This could undermine the environmental integrity and benefit of actions by the Community. To address the risk of carbon leakage, the Community will allocate allowances free of charge up to 100 % to sectors or sub-sectors meeting the relevant criteria. The definition of these sectors and sub-sectors and the measures required will be subject to re-assessment to ensure that action is taken where necessary and to avoid overcompensation. For those specific sectors or sub-sectors where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently, the action taken may take into account the electricity consumption in the production process, without changing the total quantity of allowances.

Amendment 9

Proposal for a directive – amending act Recital 20

Text proposed by the Commission

(20) The Commission should therefore review the situation by June 2011 at the latest, consult with all relevant social partners, and, in the light of the outcome of the international negotiations, submit a report accompanied by any appropriate proposals. In this context, the Commission should identify which energy intensive industry sectors or sub-sectors are likely to be subject to carbon leakage *not later than 30 June 2010*. It should base its analysis on the assessment of the inability to pass on the cost of required allowances in product prices without significant loss of market share to installations outside the Community not taking comparable action to reduce emissions. *Energy-intensive industries which are determined to be exposed to a significant risk of carbon leakage could receive a higher amount of free allocation or an effective carbon equalisation system could be introduced with a view to putting installations from the Community which are at significant risk of carbon leakage and those from third countries on a comparable footing. Such a system could apply requirements to importers that would be no less favourable than those applicable to installations within the EU, for example by requiring the surrender of allowances.* Any action taken would need to be in conformity with the principles of the UNFCCC, in particular the principle of common but differentiated responsibilities and respective capabilities, taking into account the particular situation of Least Developed Countries. It would also need to be in conformity with the international

Amendment

(20) The Commission should therefore review the situation by June 2011 at the latest, consult with all relevant social partners, and, in the light of the outcome of the international negotiations, submit a report accompanied by any appropriate proposals. In this context, the Commission should identify which energy intensive industry sectors or sub-sectors are likely to be subject to carbon leakage *by 30 January 2010. The criteria for and identification of such sectors and sub-sectors should be established after consulting the social partners and affected stakeholders, in a proposal submitted to the European Parliament and the Council. That proposal should take into account the possible failure to reach an international agreement with mandatory carbon reductions and should consider possible alternatives to an international agreement.* It should base its analysis on the assessment of the *cost structure of installations inside and outside the European Union and the* inability to pass on the cost of required allowances in product prices without significant loss of market share to installations outside the Community not taking comparable action to reduce emissions. *The Commission should monitor the potential competitiveness and employment effects for EU-based producers subject to mandatory carbon reductions in their production process.* Any action taken would need to be in conformity with the principles of the UNFCCC, in particular the principle of common but differentiated responsibilities and respective capabilities,

obligations of the Community including the WTO agreement.

taking into account the particular situation of Least Developed Countries. It would also need to be in conformity with the international obligations of the Community including the WTO agreement.

Justification

Criteria for identification and classification of sectors affected by carbon leakage need to be done much sooner than proposed by the Commission in order to give predictability to the industries effected; the direct and indirect effects to EU-based producers must be taken into account.

Amendment 10

Proposal for a directive – amending act Recital 21

Text proposed by the Commission

(21) In order to ensure equal conditions of competition within the Community, the use of credits for emission reductions outside the Community to be used by operators within the Community scheme should be harmonised. The Kyoto Protocol to the UNFCCC sets out quantified emission targets for developed countries for the period 2008 to 2012, and provides for the creation of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) from Clean Development Mechanism (CDM) and Joint Implementation projects respectively and their use by developed countries to meet part of these targets. While the Kyoto framework does not enable ERUs to be created from 2013 onwards without new quantified emission targets being in place for host countries, CDM credits can potentially continue to be generated. Additional use of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) should be provided for once there is an international agreement on climate change, from

Amendment

(21) In order to ensure equal conditions of competition within the Community, the use of credits for emission reductions outside the Community to be used by operators within the Community scheme should be harmonised. The Kyoto Protocol to the UNFCCC sets out quantified emission targets for developed countries for the period 2008 to 2012, and provides for the creation of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) from Clean Development Mechanism (CDM) and Joint Implementation projects respectively and their use by developed countries to meet part of these targets. While the Kyoto framework does not enable ERUs to be created from 2013 onwards without new quantified emission targets being in place for host countries, CDM credits can potentially continue to be generated. Additional use of Certified Emission Reductions (CERs) and Emission Reduction Units (ERUs) should be provided for once there is an international agreement on climate change, from

countries which have concluded that agreement. In the absence of such agreement, providing for further use of CERs and ERUs would undermine this incentive and make it more difficult to achieve the objectives of the Community on increasing renewable energy use. The use of CERs and ERUs should be consistent with the goal set by the Community of generating 20 % of energy from renewable sources by 2020, and promoting energy efficiency, innovation and technological development. Where it is consistent with achieving these goals, the possibility should be foreseen to conclude agreements with third countries to provide incentives for reductions in emissions in these countries which bring about real, additional reductions in greenhouse gas emissions while stimulating innovation by companies established within the Community and technological development in third countries. Such agreements may be ratified by more than one country. Upon the conclusion by the Community of a satisfactory international agreement, access to credits from projects in third countries should be increased simultaneously with the increase in the level of emission reductions to be achieved through the Community scheme.

countries which have concluded that agreement. In the absence of such agreement, providing for further use of CERs and ERUs would undermine this incentive and make it more difficult to achieve the objectives of the Community on increasing renewable energy use. The use of CERs and ERUs should be consistent with the goal set by the Community of generating 20 % of energy from renewable sources by 2020, and promoting energy efficiency, innovation and technological development. Where it is consistent with achieving these goals, the possibility should be foreseen to conclude agreements with third countries to provide incentives for reductions in emissions in these countries which bring about real, additional reductions in greenhouse gas emissions while stimulating innovation by companies established within the Community and technological development in third countries. Such agreements may be ratified by more than one country. Upon the conclusion by the Community of a satisfactory international agreement, access to credits from projects in third countries should be increased simultaneously with the increase in the level of emission reductions to be achieved through the Community scheme. ***No credits should be available, however, in relation to CDM and Joint Implementation projects in sectors exposed to carbon leakage.***

Amendment 11

Proposal for a directive – amending act Recital 33

Text proposed by the Commission

(33) As regards the approach to allocation, aviation should be treated as other industries which receive transitional free allocation rather than as electricity

Amendment

(33) Aviation is an energy-intensive industry sector as defined in Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework

generators. This means that 80 % of allowances should be allocated for free in 2013, and thereafter the free allocation to aviation should decrease each year by equal amounts resulting in no free allocation in 2020. The Community and its Member States should continue to seek to reach an agreement on global measures to reduce greenhouse gas emissions from aviation *and review the situation of this sector as part of the next review of the Community scheme.*

for the taxation of energy products and electricity¹. In the absence of a viable alternative fuel, aviation is fully kerosene dependent and has very high abatement costs. The ability for aircraft operators to pass on the costs of carbon allowances to their customers is limited. The Community and its Member States should continue to seek to reach an agreement on global measures to reduce greenhouse gas emissions from aviation. *As long as there is no global agreement on global measures to reduce greenhouse gas emissions in relation to aviation, there are serious risks of traffic deviation and carbon leakage, particularly if a high level of auctioning is applied to the sector within the EU ETS. The level of auctioning of allowances in relation to aviation should reflect the risk of carbon leakage and the impact of the EU ETS on the competitiveness of aviation in the European Union.*

¹ OJ L 283, 31.10.2003, p. 51.

Justification

Given the specific character of the aviation sector, its inclusion in the EU ETS is also subject of the ongoing revision of directive 2003 (87) EC according to Commission proposal EC (2006) 818. The level of auctioning for aviation under the general review is to be decided on after thorough investigation of the effects of carbon leakage and the impact on competitiveness of EU aviation, which is currently subject to European Commission study.

Amendment 12

Proposal for a directive – amending act

Article 1 – point 2 – subpoint b

Directive 2003/87/EC

Article 3 – point h

Text proposed by the Commission

(h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a

Amendment

(h) 'new entrant' means any installation carrying out one or more of the activities indicated in Annex I, which has obtained a

greenhouse gas emission permit subsequent to the submission to the Commission of the list referred to in Article 11(1);

greenhouse gas emission permit **or an update of its greenhouse gas emissions permit because of a change in the nature or functioning or an extension of the installation or a physical modification resulting in significant increase of the capacity of the existing installation** subsequent to the submission to the Commission of the list referred to in Article 11(1);

Justification

As for the principle of non discrimination, in order to ensure a level playing field, all producers should be entitled to receive a comparable amount of free allowances based on a efficiency target (i.e. a benchmark), as they open new installations or as they increase the capacity of existing one while The Commission's proposal restrains the free allocation to the first case.

This amendment promotes the closure of outdated and inefficient installations and the transfer of the production to a centralised modern unit using the economy of scale to cope with the heavy investments required.

Amendment 13

Proposal for a directive – amending act

Article 1 – point 2 – point c

Directive 2003/87/EC

Article 3 – point t

Text proposed by the Commission

(t) 'Combustion installation' means any stationary technical unit in which fuels are oxidised producing heat or mechanical energy or both, and other directly associated activities including waste gas scrubbing are carried out;

Amendment

(t) 'Combustion installation' means any stationary technical unit in which fuels are oxidised producing heat or mechanical energy or both, and other directly associated activities including waste gas scrubbing are carried out. **Recycling operations as defined in Annex IIb of Directive 91/156/EEC are, however, excluded from this definition;**

Justification

One of the aims of the EU Climate Package is to promote recycling. Hence, it does not make sense to include recycling operations in a scheme which will penalise it.

Amendment 14

Proposal for a directive – amending act

Article 1 – point 2 – point c

Directive 2003/87/EC

Article 3 – point u a (new)

Text proposed by the Commission

Amendment

(ua) 'temporary certified emission reduction' or 'tCER' means a unit issued as a result of a forestation or reforestation project, which will expire at the end of the commitment period, following that in which it was issued, in accordance with Article 12 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCC),

Justification

The risk of impermanence in forests is dealt with the CDM procedure by creating temporary credits; the arrangements were set out in 2003 at the Milan Conference (Decision 19/CP/9).

Amendment 15

Proposal for a directive – amending act

Article 1 – point 2 – point c

Directive 2003/87/EC

Article 3 – point u b (new)

Text proposed by the Commission

Amendment

(ub) 'sectors exposed to a significant risk of carbon leakage' means sectors determined in accordance with Article 10a(9);

Justification

Clarification on exposed sectors by reference to criteria and the new Annex I a (new).

Amendment 16

Proposal for a directive – amending act

Article 1 – point 6

Directive 2003/87/EC

Article 9a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. In respect of installations which are only included in the Community scheme from 2013 onwards, Member States shall ensure that the operators of such installations **may** submit to the relevant competent authority independently verified emissions data in order for them to be taken into account for the quantity of allowances to be issued.

Amendment

2. In respect of installations which are only included in the Community scheme from 2013 onwards, Member States shall ensure that the operators of such installations **shall** submit to the relevant competent authority **duly substantiated and** independently verified emissions data in order for them to be taken into account for the quantity of allowances to be issued.

Justification

It must be mandatory if such data are supposed to be into account for the quantity of allowances to be issued.

Amendment 17

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 3 – introductory part

Text proposed by the Commission

3. At least **20 %** of the revenues generated from the auctioning of allowances referred to in paragraph 2, including all revenues from the auctioning referred to in point (b) thereof, should be used for the following:

Amendment

3. 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 point (b) thereof, should be used for the following:

Justification

The auctioning of allowance must result in a transfer of funds from pollutant industries towards activities developing renewable sources of energy, storing carbon or preventing the release of carbon.

The principal condition for the continued exploitation of tropical forests must be a

certification procedure complying with the six Helsinki sustainable development criteria, in particular the sixth criteria concerning socio-economic benefits.

In the European Union the forestry and wood production sector compensates for between 10% and 20% of greenhouse gas emissions.

Amendment 18

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 3 – point a

Text proposed by the Commission

(a) to reduce greenhouse gas emissions, including by contributing to the Global Energy Efficiency and Renewable Energy Fund, to adapt to the impacts of climate change and to fund research and development for reducing emissions and adapting, including participation in initiatives within the framework of European Strategic Energy Technology Plan;

Amendment

(a) to reduce greenhouse gas emissions, including by contributing to the Global Energy Efficiency and Renewable Energy Fund, to adapt to the impacts of climate change and to fund research and development ***of the sectors within the scope of this Directive*** for reducing emissions and adapting, including participation in initiatives within the framework of European Strategic Energy Technology Plan ***and the European Technology Platforms***;

Justification

Since one of the basic assumptions of the Community scheme is that the installations under its scope can contribute substantially to the EU's abatement objectives, revenues generated from these installations should be channelled towards these. The EU Technology Platforms is a successful instrument and should be strengthened.

Amendment 19

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 3 – point c

Text proposed by the Commission

(c) for the capture and geological storage of greenhouse gases, ***in particular from***

Amendment

(c) for the capture and geological storage of greenhouse gases;

coal power stations;

Justification

Since one of the basic assumptions of the Community scheme is that the installations under its scope can contribute substantially to the EU's abatement objectives, revenues generated from these installations should be channelled towards these. The EU Technology Platforms is a successful instrument and should be strengthened.

Amendment 20

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 3 – point d

Text proposed by the Commission

(d) for measures to avoid deforestation, in particular in Least Developed Countries;

Amendment

(d) for measures to avoid deforestation, in particular in Least Developed Countries, ***particularly through the development of certification procedures and additional measures in the Member States or their regions in order to enhance the contribution of forests and the timber industry to combating global warming and climate change, while ensuring that forests can continue to fulfil their other functions;***

Justification

The auctioning of allowance must result in a transfer of funds from pollutant industries towards activities developing renewable sources of energy, storing carbon or preventing the release of carbon.

The principal condition for the continued exploitation of tropical forests must be a certification procedure complying with the six Helsinki sustainable development criteria, in particular the sixth criteria concerning socio-economic benefits.

In the European Union the forestry and wood production sector compensates for between 10% and 20% of greenhouse gas emissions.

Amendment 21

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 3 – point g a (new)

Text proposed by the Commission

Amendment

(ga) to finance research and development in energy efficiency and clean technologies in the sectors covered by the scope of this Directive.

Justification

Auctioning revenues should in principle be used to create the low carbon sectors of the future, reinvesting the funds into the sectors involved.

Amendment 22

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

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

Text proposed by the Commission

Amendment

At least 50 % of the revenues generated from the auctioning of allowances referred to in paragraph 2 shall be used to finance greenhouse gas reductions, avoided deforestation and degradation, and adaptation to climate change.

Justification

Revenues from auctioning of allowances should be used to tackle climate change, both in terms of mitigation and adaptation, and subsidies to help finance the necessary investments especially in low income families. At least half of the revenues should be earmarked to finance mitigation, adaptation, avoided deforestation and degradation in developing countries.

Amendment 23

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 4

Text proposed by the Commission

4. Member States shall include information on the use of revenues for each of these purposes in their reports submitted under Decision No 280/2004/EC.

Amendment

4. Member States shall include information on the use of revenues for each of these purposes in their reports submitted under Decision No 280/2004/EC, ***with an emphasis on internal market, State aid and competition issues.***

The Commission shall report annually to the European Parliament on the use of the revenues, with a particular focus on the effects on the internal market, State aid and competition.

Amendment 24

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10 – paragraph 5

Text proposed by the Commission

5. By ***31 December 2010***, the Commission shall ***adopt a Regulation on*** timing, administration and other aspects of auctioning ***to*** ensure that ***it is*** conducted in an open, transparent and non-discriminatory manner. Auctions shall be designed to ensure that operators, and in particular any small and *medium size* enterprises covered by the Community scheme, have full access and any other participants do not undermine the operation of the auction. ***That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in***

Amendment

5. By ***31 December 2009***, the Commission shall ***submit to the European Parliament and the Council an analytical report assessing the*** timing, administration and other aspects of auctioning, ***including, as appropriate, a proposal for a directive. That proposal shall aim to*** ensure that ***auctions are*** conducted in an open, transparent and non-discriminatory manner. Auctions shall be designed to ensure that operators, and in particular any small and *medium-sized* enterprises covered by the Community scheme, have full access and any other participants do not undermine the operation of the auction ***or the climate change objectives that justify their adoption. The proposal shall***

Article [23(3)].

therefore be sufficiently detailed, in relation, inter alia, to the timing and frequency of auctioning across Member States, and adequately framed, addressing the probable impacts of auctioning, in particular in relation to:

- speculative moves,*
- cross-border competition effects,*
- cross-sectoral effects,*
- the competitiveness of European business and industry, in particular small and medium-sized enterprises,*
- inflationary pressure, and*
- socio-economic effects.*

The practical functioning of auctioning is an essential component of the revised EU ETS proposal and shall therefore be subject to co-decision procedure.

Justification

The Commission proposes to deal with a crucial element of the extended ETS in comitology. It would have been preferable for the Commission to come forward with a proposal for co-decision but in the absence of that criteria must be set for the Commission to respect in its decision on auctioning methods.

Amendment 25

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. ***The Commission shall***, by 30 June 2011, ***adopt*** Community wide and fully-harmonised ***implementing*** measures for allocating the allowances referred to in paragraphs 2 to 6 and 8 ***in a harmonised manner***.

Amendment

1. By 30 June 2011, Community-wide and fully-harmonised measures for allocating the allowances referred to in paragraphs 2 to 6 and 8 ***shall be adopted***.

Amendment 26

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 2

Text proposed by the Commission

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

Amendment

deleted

Amendment 27

Proposal for a directive – amending act

Article 1 – point 8

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***, ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions, by taking account of the most efficient techniques, substitutes, alternative production processes, use of biomass and greenhouse gas capture and storage, and shall not give incentives to increase emissions. No free allocation shall be made in respect of any electricity production.

Amendment

The measures referred to in the first subparagraph shall, ***in the light, inter alia, of process emissions***, ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions, by ***using sectoral benchmarks and*** taking account of the most efficient techniques, substitutes, alternative production processes, use of biomass, ***cogeneration*** and greenhouse gas capture and storage ***in each sector***, and shall not give incentives to increase emissions. No free allocation shall be made in respect of any electricity production, ***save for that produced from waste gases from industrial production processes, when the aim is to use the electricity for the consumption of the operator of those production processes, in which case any allocation to the operator shall be made according to the sectoral benchmarks agreed for the relevant production***

processes.

The Commission shall ensure that no unnecessary costs are passed on to the end consumer.

Justification

Auctioning carries significant potential for economic damage to manufacturing industries without bringing environmental benefits that only depend on the respect of reduction targets. It should therefore be introduced only if either globally harmonised by an international agreement or at least accompanied by an appropriate border adjustment mechanism. By setting a Benchmark according to the best available technique, the economic incentive to reduce emissions by ceasing inefficient production and applying the highest technical standards is still the same.

The use of waste gases from the production process for the generation of electricity contributes to the conservation of resources and reduction of CO2 emissions. Electricity produced under these special circumstances should be excluded from auctioning, and included by the same allocation methodology as applied to respective installations of the producer of these gases. This corresponds with the main content of point 92 of the Commission Communication COM(2008)830.

Amendment 28

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 4

Text proposed by the Commission

The Commission shall, upon the conclusion by the Community of an international agreement on climate change leading to mandatory reductions of greenhouse gas emissions comparable to those of the Community, review those measures to provide that free allocation only takes place where this is fully justified in the light of that agreement.

Amendment

The Commission shall, upon the conclusion by the Community of an international agreement ***and/or international sectoral agreements*** on climate change leading to mandatory reductions of greenhouse gas emissions comparable to those of the Community, review those measures to provide that free allocation only takes place where this is fully justified in the light of that agreement.

The Commission's mandate for negotiating international agreements shall be based on detailed impact assessments of potential consequences for

***EU-based companies and in accordance
with criteria stipulated in Annex Ia.***

Justification

The Commission should concentrate on achieving quantifiable and verifiable sectoral international agreements; the only way to avoid carbon leakage and unfair competition disfavours EU-based sectors.

Amendment 29

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 6 – subparagraph 3

Text proposed by the Commission

No free allocation shall be made in respect of any electricity production by new entrants.

Amendment

No free allocation shall be made in respect of any electricity production by new entrants ***save for that produced from waste gases from industrial production processes, when the aim is to use the electricity for the consumption of the operator of those production processes, in which case allocation to the operator shall be made according to the sectoral benchmarks agreed for the relevant production processes.***

Justification

The use of waste gases from the production process for the generation of electricity contributes to the conservation of resources and reduction of CO₂ emissions. Electricity produced under these special circumstances should be excluded from auctioning, and included by the same allocation methodology as applied to respective installations of the producer of these gases. This corresponds with the main content of point 92 of the Commission Communication COM(2008)830.

Amendment 30

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 6 – subparagraph 3

Text proposed by the Commission

No free allocation shall be made in respect of any electricity production by new entrants.

Amendment

No free allocation shall be made in respect of any electricity production by new entrants, ***save for that produced from waste gases from industrial production processes.***

Where a waste gas from a production process is used as a fuel, allowances shall be allocated to the operator of the installation generating the waste gas with the same allocation principles as those that applied in regard to that installation.

Justification

This amendment is a consequence of the previous amendment on Article 10a(1).

Amendment 31

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 7

Text proposed by the Commission

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be **80 % of** the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020.

Amendment

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be the quantity determined in accordance with the measures referred to in paragraph 1, ***taking into account, if appropriate, the outcome of international negotiations,*** and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020.

Amendment 32

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 8

Text proposed by the Commission

Amendment

8. In 2013 and in each subsequent year **up to 2020**, installations in sectors **which are** exposed to a significant risk of carbon leakage **shall be allocated** allowances free of charge **up to 100 percent** of the quantity determined in accordance with paragraphs 2 to 6.

8. **As regards Article 10b**, in 2013 and in each subsequent year, **for** installations in sectors exposed to a significant risk of carbon leakage, **the amount of** allowances **allocated** free of charge **shall be 100 %** of the quantity determined in accordance with paragraphs 2 to 6.

Justification

The effectiveness of a trading system to reduce emissions depends solely on the number of allowances in the system. How these allowances are eventually allocated – through auctioning or by using benchmarks – has no impact on the total volume of allowances and therefore does not affect the environmental outcome sought by the system. Free allocation is therefore equally effective to auctioning when it comes to reducing emissions while it imposes lower costs to the economy.

Amendment 33

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 1

Text proposed by the Commission

Amendment

9. **At the latest by 30 June 2010** and every **3 years** thereafter the Commission shall determine the sectors referred to in paragraph 8.

9. By **30 January 2010** and every **4 years** thereafter the Commission shall determine the sectors referred to in paragraph 8.

Justification

Sectors considered vulnerable to "carbon leakage" and the appropriate actions should be decided upon as soon as possible. A reassessment of the sectors concerned every 3 years will unnecessarily lead to uncertainty which is detrimental for investment.

Amendment 34

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall submit to Parliament and the Council a proposal relating to the sectors referred to in paragraph 8. All relevant social partners shall be consulted.

Justification

The list of industries exposed to carbon leakage should be reviewed in 2016 and the results implemented in 2020, if necessary. This procedure provides for maximum planning security and gives certainty on avoidance of carbon leakage.

The affected stakeholders should be part of the decision process.

The disaggregation of sectors shall be avoided, since this will lead to administrative problems for implementation. In determining the eligible sectors the question of carbon efficiency is not relevant but the regulative framework of their operations, by which efficiency is affected.

Amendment 35

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 2

Text proposed by the Commission

Amendment

That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)]. ***deleted***

Justification

The list of industries exposed to carbon leakage should be reviewed in 2016 and the results implemented in 2020, if necessary. This procedure provides for maximum planning security and gives certainty on avoidance of carbon leakage.

The affected stakeholders should be part of the decision process.

The disaggregation of sectors shall be avoided, since this will lead to administrative problems

for implementation. In determining the eligible sectors the question of carbon efficiency is not relevant but the regulative framework of their operations, by which efficiency is affected.

Amendment 36

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Each year, on the basis of new market information, sectors not included in Annex I may request the Commission to reassess their vulnerability to carbon leakage.

Amendment 37

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – introductory part

Text proposed by the Commission

Amendment

In the determination ***referred to in the first subparagraph*** the Commission shall take into account the extent to which it is possible for the sector or sub-sector concerned to pass on the cost of the required allowances ***in*** product prices without ***significant*** loss of market share ***to less carbon efficient installations outside the Community, taking*** into account the following:

In the determination ***of the sectors referred to in paragraph 8*** the Commission shall take into account the extent to which it is possible for the sector or sub-sector concerned to pass on the cost of the required allowances ***through*** product prices without ***a*** loss of market share, ***profitability, or investment opportunities in the same sector or sub-sector in third countries that do not impose comparable constraints on emissions. The Commission shall take*** into account, ***inter alia***, the following ***criteria***:

Justification

To ensure legal and economic certainty, the period should be extended to 5 years and the date of the first assessment brought up to 30 June 2009. It is very difficult to predict the impact of

the revised EU-ETS on industries covered by the scheme in the EU. If market information shows that carbon leakage does take place in a sector not hitherto considered as vulnerable to carbon leakage, a remedy should be available without having to wait for the next 5 year review. This amendment ensures that the future market structure as well as the carbon intensity of a product and the freight cost (a key factor when it comes to the whole carbon leakage issue) are taken into account.

Amendment 38

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point a

Text proposed by the Commission

(a) the extent to which auctioning would lead to a substantial increase in production cost;

Amendment

(a) the extent to which auctioning would lead to a substantial increase in production cost ***in industries with high CO₂ emissions per unit of sales***;

Justification

To ensure legal and economic certainty, the period should be extended to 5 years and the date of the first assessment brought up to 30 June 2009. It is very difficult to predict the impact of the revised EU-ETS on industries covered by the scheme in the EU. If market information shows that carbon leakage does take place in a sector not hitherto considered as vulnerable to carbon leakage, a remedy should be available without having to wait for the next 5 year review. This amendment ensures that the future market structure as well as the carbon intensity of a product and the freight cost (a key factor when it comes to the whole carbon leakage issue) are taken into account.

Amendment 39

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point b

Text proposed by the Commission

(b) the extent to which it is possible for individual installations in the sector concerned to reduce emission levels for instance on the basis of the most efficient techniques;

Amendment

(b) the extent to which it is possible for individual installations in the sector concerned to reduce emission levels for instance on the basis of the most efficient techniques, ***at a cost of investment that***

does not result in a significant loss of competitiveness and /or market share to installations situated in third countries and not subject to equivalent CO₂ emissions constraints;

Justification

The list of industries exposed to carbon leakage should be reviewed in 2016 and the results implemented in 2020, if necessary. This procedure provides for maximum planning security and gives certainty on avoidance of carbon leakage.

The affected stakeholders should be part of the decision process.

The disaggregation of sectors shall be avoided, since this will lead to administrative problems for implementation. In determining the eligible sectors the question of carbon efficiency is not relevant but the regulative framework of their operations, by which efficiency is affected.

Amendment 40

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point c

Text proposed by the Commission

(c) market structure, relevant geographic and product market, the exposure of the sectors to international competition;

Amendment

(c) ***the current and the projected*** market structure, relevant geographic and product market, ***employment and economic relevance***, the exposure of the sectors to international competition ***and global prices, and, inter alia, transport costs including direct and indirect CO₂ costs;***

Justification

The list of industries exposed to carbon leakage should be reviewed in 2016 and the results implemented in 2020, if necessary. This procedure provides for maximum planning security and gives certainty on avoidance of carbon leakage.

The affected stakeholders should be part of the decision process.

The disaggregation of sectors shall be avoided, since this will lead to administrative problems for implementation. In determining the eligible sectors the question of carbon efficiency is not relevant but the regulative framework of their operations, by which efficiency is affected.

Amendment 41

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point d

Text proposed by the Commission

(d) the effect of climate change and energy policies implemented, or expected to be implemented outside the EU in the sectors concerned.

Amendment

(d) the effect of climate change and energy policies implemented, or expected to be implemented outside the EU in the sectors concerned ***and their impact on the competitiveness of sectors affected by the EU ETS;***

Justification

The list of industries exposed to carbon leakage should be reviewed in 2016 and the results implemented in 2020, if necessary. This procedure provides for maximum planning security and gives certainty on avoidance of carbon leakage.

The affected stakeholders should be part of the decision process.

The disaggregation of sectors shall be avoided, since this will lead to administrative problems for implementation. In determining the eligible sectors the question of carbon efficiency is not relevant but the regulative framework of their operations, by which efficiency is affected.

Amendment 42

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(da) direct and indirect impacts of the forecasted increase in energy prices as well as certain raw materials as a result of policy relating to climate change;

Amendment 43

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 3 – point d b (new)

Text proposed by the Commission

Amendment

(db) collateral social effects of passing on costs to the end consumer.

Amendment 44

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9 – subparagraph 4

Text proposed by the Commission

Amendment

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the ***increased*** carbon price or the impact on the profitability of the ***installations*** concerned may inter alia be used.

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the carbon price or the impact on the profitability of the ***sectors*** concerned may inter alia be used.

Justification

To ensure legal and economic certainty, the period should be extended to 5 years and the date of the first assessment brought up to 30 June 2009. It is very difficult to predict the impact of the revised EU-ETS on industries covered by the scheme in the EU. If market information shows that carbon leakage does take place in a sector not hitherto considered as vulnerable to carbon leakage, a remedy should be available without having to wait for the next 5 year review. This amendment ensures that the future market structure as well as the carbon intensity of a product and the freight cost (a key factor when it comes to the whole carbon leakage issue) are taken into account.

Amendment 45

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10b – paragraph 1 – introductory part

Text proposed by the Commission

*Not later than **June 2011**, the Commission shall, in the light of the outcome of the international negotiations and the extent to which **these lead to global greenhouse gas emission reductions, and after consulting with all relevant social partners, submit to the European Parliament and to the Council an analytical report assessing the situation with regard to energy-intensive sectors or sub-sectors that have been determined to be exposed to significant risks of carbon leakage. This shall be accompanied by any appropriate proposals, which may include:***

Amendment

*By **January 2010**, the Commission shall, in the light of the outcome of the international negotiations and the extent to which **that outcome complies with criteria set out in Annex Ia, submit to the European Parliament and the Council a proposal for the sectors or sub-sectors that are to be considered at risk of carbon leakage. Those sectors or sub-sectors shall be identified in consultation with the social partners, affected stakeholders, the European Parliament and the Council and shall take into account the potential failure to reach an international agreement with mandatory reductions in carbon emissions.***

Justification

The dates need to be brought forward in order to provide predictability for industries affected by carbon leakage.

An eventual international agreement needs to be quantifiable and verifiable and bring equivalent emissions reductions as proposed by the Commission.

The Parliament and the Council need to be informed and give their assent on the Commission's proposal and the identification of carbon leakage sectors and sub-sectors needs to be done in consultation with the interested parties.

Amendment 46

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10b – paragraph 2

Text proposed by the Commission

***Any** binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall **also** be*

Amendment

Binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall be

taken into account when considering what measures are appropriate.

determinant when considering what measures are appropriate **and when determining the sectors exposed to a significant risk of carbon leakage in accordance with Article 10a(8) and (9).**

Amendment 47

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11 – paragraph 2 – subparagraph 2

Text proposed by the Commission

An installation which ceases to operate shall receive no further free allowances.

Amendment

An installation which ceases to operate shall receive no further free allowances **and shall surrender any remaining allowances, or an equivalent amount, to the competent authorities. The Commission shall monitor national implementation and shall ensure that the State aid and competition rules are properly applied, in particular to prevent abuses of dominant positions. To this end, the Commission shall, every three months, publish the end consumer price of energy products disaggregated by company, sector and Member State. The EU ETS component of the end consumer price shall be identified and stated separately in the Commission's publication of prices.**

Amendment 48

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11a – paragraph 1

Text proposed by the Commission

1. Until a future international agreement on climate change has entered into force, and in advance of the application of paragraphs 3 and 4 of Article 28, paragraphs 2 to 7 of

Amendment

1. Until a future international agreement on climate change **or any international sectoral agreement** has entered into force, and in advance of the application of

this Article shall apply.

paragraphs 3 and 4 of Article 28,
paragraphs 2 to 7 of this Article shall
apply. ***CDM and Joint Implementation
credits from projects in sectors exposed to
carbon leakage shall be excluded from the
application of this Article, however.***

Amendment 49

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11a – paragraph 7

Text proposed by the Commission

7. Once an international agreement on climate change ***has*** been reached, only CERs from third countries which have ratified that agreement shall be accepted in the *Community scheme*.

Amendment

7. Once an international agreement ***or international sectoral agreements*** on climate change ***have*** been reached, only CERs from third countries which have ratified that agreement shall be accepted in the *EU ETS*.

Amendment 50

Proposal for a directive – amending act

Article 1 – point 10

Directive 2003/87/EC

Article 11b – paragraph 1

Text proposed by the Commission

The Community and its Member States shall only authorise project activities where all project participants have headquarters either in a country that has concluded the international agreement relating to such projects or in a country or sub-federal or regional entity which is linked to the Community scheme pursuant to Article 25.

Amendment

The Community and its Member States shall only authorise project activities where all project participants have headquarters either in a country that has concluded the international agreement relating to such projects or in a country or sub-federal or regional entity which is linked to the Community scheme pursuant to Article 25. ***CDM and JI credits from projects in sectors exposed to carbon leakage shall be excluded from the application of this paragraph.***

Amendment 51

Proposal for a directive – amending act

Article 1 – point 12

Directive 2003/87/EC

Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The Commission shall adopt a Regulation for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I which shall be based on the principles for monitoring and reporting set out in Annex IV and shall specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.

Amendment

1. The Commission shall, **by 31 December 2011**, adopt a Regulation for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I which shall be based on the principles for monitoring and reporting set out in Annex IV and shall specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.

Amendment 52

Proposal for a directive – amending act

Article 1 – point 12

Directive 2003/87/EC

Article 14 – paragraph 2

Text proposed by the Commission

2. The *Regulation* **may** take into account the most accurate and up-to-date scientific evidence available, in particular from the IPCC, and **may** also specify requirements for operators to report on emissions associated with the production of goods produced by energy intensive industries which may be subject to international competition, and for this information to be verified independently.

Those requirements **may** include reporting on levels of emissions from electricity generation covered by the Community scheme associated with the production of

Amendment

2. The *regulation* **shall** take into account the most accurate and up-to-date scientific evidence available, in particular from the IPCC, and **shall** also specify requirements for operators to report on emissions associated with the production of goods produced by energy intensive industries which may be subject to international competition, and for this information to be verified independently. ***The regulation shall also specify reporting requirements for financial institutions involved in emissions trading.***

Those requirements **shall** include reporting on levels of emissions from electricity generation covered by the Community scheme associated with the production of

such goods.

such goods.

Amendment 53

Proposal for a directive – amending act

Article 1 – point 12

Directive 2003/87/EC

Article 14 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Every two years following the adoption of this Directive, the Commission shall draw up a report evaluating how the implementation of the Member States' commitments under this Directive has affected competition at national, Community and international level.

Amendment 54

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/87/EC

Article 15 – point b – subparagraph 1

Text proposed by the Commission

Amendment

The Commission shall adopt a Regulation for the verification of emission reports and the accreditation of verifiers specifying conditions for the accreditation, mutual recognition and withdrawal of accreditation for verifiers, and for supervision and peer evaluation as appropriate.

The Commission shall, ***by 30 June 2010***, adopt a Regulation for the verification of emission reports and the accreditation of verifiers specifying conditions for the accreditation, mutual recognition and withdrawal of accreditation for verifiers, and for supervision and peer evaluation as appropriate.

Amendment 55

Proposal for a directive – amending act

Article 1 – point 19

Directive 2003/87/EC

Article 24a – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. In addition to the inclusions provided for in Article 24, the Commission may adopt implementing measures for issuing allowances in respect of projects administered by Member States that reduce greenhouse gas emissions outside of the Community scheme.

Amendment

1. In addition to the inclusions provided for in Article 24, the Commission may adopt implementing measures for issuing allowances in respect of projects administered by Member States that reduce greenhouse gas emissions outside of the Community scheme. ***The Commission shall exclude CDM and Joint Implementation credits from projects in sectors exposed to carbon leakage.***

Amendment 56

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 27 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States may exclude, from the Community scheme, combustion installations which have a rated thermal input below **25MW**, reported emissions to the competent authority of less than **10 000 tonnes** of carbon dioxide equivalent, excluding emissions from biomass, in each of the preceding 3 years, 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:

Amendment

1. Member States may exclude, from the Community scheme, combustion installations which have a rated thermal input below **50MW**, reported emissions to the competent authority of less than **25 000 tonnes** of carbon dioxide equivalent, excluding ***inevitable carbon dioxide emissions from raw materials and*** emissions from biomass, in each of the preceding 3 years, 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:

Justification

Small installations should have the possibility to "opt-out" from the system if equivalent measures are in place in order to reduce the administrative burden on small and medium-sized enterprises (SMEs), to avoid unnecessary administrative costs and bureaucracy and to enhance the efficiency of the system. One third of total installations that are covered by the scheme are small installations that together account for only 2% of the overall emissions reported.

Amendment 57

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 27 – paragraph 1 – point b

Text proposed by the Commission

(b) it confirms that monitoring arrangements are in place to assess whether any installation emits **10 000 tonnes** or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year;

Amendment

(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 ***inevitable carbon dioxide emissions from raw materials and*** emissions from biomass, in any one calendar year;

Justification

Small installations should have the possibility to "opt-out" from the system if equivalent measures are in place in order to reduce the administrative burden on small and medium-sized enterprises (SMEs), to avoid unnecessary administrative costs and bureaucracy and to enhance the efficiency of the system. One third of total installations that are covered by the scheme are small installations that together account for only 2% of the overall emissions reported.

Amendment 58

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 27 – paragraph 1 – point c

Text proposed by the Commission

(c) it confirms that if any installation emits **10 000 tonnes** or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year or the equivalent measures are no longer in place, the installation will be re-introduced into the system;

Amendment

(c) it confirms that if any installation emits **25 000 tonnes** or more of carbon dioxide equivalent, excluding ***inevitable carbon dioxide from raw materials and*** emissions from biomass, in any one calendar year or the equivalent measures are no longer in place, the installation will be re-introduced into the system;

Justification

Small installations should have the possibility to "opt-out" from the system if equivalent measures are in place in order to reduce the administrative burden on small and medium-sized enterprises (SMEs), to avoid unnecessary administrative costs and bureaucracy and to enhance the efficiency of the system. One third of total installations that are covered by the scheme are small installations that together account for only 2% of the overall emissions reported.

Amendment 59

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 28 – title

Text proposed by the Commission

Adjustments applicable upon the conclusion of a future international agreement on climate change

Amendment

Adjustments applicable upon the conclusion of a future international agreement ***and/or international sectoral agreements*** on climate change

Amendment 60

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 28 – paragraph 1

Text proposed by the Commission

1. Upon the conclusion by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding the minimum reduction levels agreed upon by the European Council, paragraphs 2, 3 and 4 shall apply.

Amendment

1. Upon the conclusion by the Community of an international agreement ***and/or international sectoral agreements*** on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding the minimum reduction levels agreed upon by the European Council, paragraphs 2, 3 and 4 shall apply.

Amendment 61

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 28 – paragraph 2

Text proposed by the Commission

2. From the year following the conclusion of the international agreement referred to in paragraph 1, the **linear factor shall increase so that** the Community quantity of allowances in 2020 **is lower than that established pursuant to Article 9, by a quantity of allowances equivalent to** the overall reduction of greenhouse gas emissions by the Community below 20 % to which the international agreement commits the Community, **multiplied by the share of overall greenhouse gas emission reductions in 2020 which the Community scheme is contributing pursuant to Articles 9 and 9a.**

Amendment

2. From the year following the conclusion of the international agreement referred to in paragraph 1, the **Commission shall submit a legislative proposal to the Parliament and the Council justifying a further reduction of** the Community quantity of allowances in 2020 **based on the linear factor mechanism and taking into account** the overall reduction of greenhouse gas emissions by the Community below 20 % to which the international agreement commits the Community.

Justification

The reactions to the conclusions of the negotiations on an international agreement shall not be an automatism but subject to political evaluation and decision.

Amendment 62

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 28 – paragraph 3

Text proposed by the Commission

3. Operators may use CERs, ERUs or other credits approved in accordance with paragraph 4 from third countries which have concluded the international agreement, up to half of the reduction taking place in accordance with paragraph 2.

Amendment

3. Operators may use CERs, ERUs or other credits, **excluding CDM and JI credits from sectors exposed to carbon leakage,** approved in accordance with paragraph 4 from third countries which have concluded the international agreement, up to half of the reduction taking place in accordance with paragraph 2.

Amendment 63

Proposal for a directive – amending act Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Commission report

The Commission shall present an annual report to the European Parliament and the Council on the establishment and functioning of the revised EU ETS. The first such report shall be presented by ...*.

**** one year after entry into force of this Directive.***

Amendment 64

Proposal for a directive – amending act Annex I a (new)

Text proposed by the Commission

Amendment

Annex Ia

Minimum requirements for International Agreements

An international agreement including energy-intensive industries exposed to a significant risk of carbon leakage, or a international sectoral agreement relating to such industries, must comply with at least the following criteria in order to provide a level playing field for such industries:

- (i) the participation of countries must represent a critical mass of at least 85 % of production,***
- (ii) the participating countries must have equivalent CO₂ emission targets,***
- (iii) similar emission reductions systems with equivalent effect must be imposed by***

all participating countries or from countries with non-equivalent CO₂ emission targets in sectors covered by the EU ETS,

(iv) competing materials must be subject to equivalent restrictions taking into account life cycles,

(v) an effective international monitoring and verification system must be implemented.

Justification

In line with amendment to Article 10b.

PROCEDURE

Title	Greenhouse gas emission allowance trading system	
References	COM(2008)0016 – C6-0043/2008 – 2008/0013(COD)	
Committee responsible	ENVI	
Opinion by Date announced in plenary	ECON 19.2.2008	
Drafts(wo)man Date appointed	Elisa Ferreira 11.3.2008	
Discussed in committee	2.6.2008	16.7.2008
Date adopted	9.9.2008	
Result of final vote	+: 39 -: 1 0: 0	
Members present for the final vote	Mariela Velichkova Baeva, Paolo Bartolozzi, Zsolt László Becsey, Pervenche Berès, Sebastian Valentin Bodu, Sharon Bowles, Udo Bullmann, Manuel António dos Santos, Christian Ehler, Elisa Ferreira, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Robert Goebbels, Donata Gottardi, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Othmar Karas, Christoph Konrad, Guntars Krasts, Kurt Joachim Lauk, Andrea Losco, Astrid Lulling, Gay Mitchell, Sirpa Pietikäinen, John Purvis, Alexander Radwan, Bernhard Rapkay, Heide Rühle, Eoin Ryan, Antolín Sánchez Presedo, Salvador Domingo Sanz Palacio, Olle Schmidt, Margarita Starkevičiūtė, Ieke van den Burg	
Substitute(s) present for the final vote	Harald Ettl, Piia-Noora Kauppi, Vladimír Maňka, Gianni Pittella, Bilyana Ilieva Raeva, Margaritis Schinas	

22.7.2008

OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community
(COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))

Rapporteur: Kyriacos Triantaphyllides

SHORT JUSTIFICATION

The European Emission System Trading (EU ETS) started operation on 1 January 2005 and represents one of the most important instruments of EU climate policy due to its ability to achieve absolute emission reductions in an economically efficient manner. The amending Directive has been drawn up by the Commission at the request of the European Council with a view to enhancing the certainty and predictability of the Emissions trading system. The Directive is particularly aimed at codifying the interpretation of combustion installation in order to end the inconsistent application of the scope of the Directive which should be extended to include new sectors and gasses for the post 2013 period. Green house Gas trading primarily concerns National governments and Regional groupings of countries. It does not, at first glance directly concern sub-national regional authorities. This however is to take a very limited view. as of necessity the combustion installations which enter into the market are situated in one or other region of a Member State and the efficiency of its installations in terms of its efforts to adapt to changing energy sources and its reliance on or continued trading in the GHG market will directly effect the local environment, its economic development as well as its social cohesion and employment levels.

The Commission's proposal is a highly technical and precise document which forms an integral part of international agreements.

As Commissioner Hübner has frequently pointed out, under the new rules and the programming period 2007-2013 European Regional Development policy plays an important role in financing and assisting sustainable, competitive and secure energy Cohesion policy has been preparing to step up during the period 2007-2013 its already significant contribution to meet the challenge of ensuring more secure and sustainable sources of energy. In concrete

financial terms" € 15.2 billion of Cohesion policy funding have been allocated for the period for investments in renewable energies and energy efficiency".

In view of these large investments and in order to enable the regions concerned to monitor the relationship between investments carried out under EU structural funds and the performance of combustion installations in their region benefiting from such investments, your draftsman proposes that regional authorities and local government authorities responsible for regional development funds be informed:

- Of the trading operations carried out by installations on their territory; so as to enable them to assess the effect of regional fund expenditure aimed at assisting companies operating these installations to convert the technology used to clean and or renewable sources.

Parliament has recently pointed out¹, the fact that many of the Union's regions, and particularly those whose major source of income is based on tourism, are heavily dependent on the availability of cheap air travel to ensure the continuous success of this all important industry. Thus countries such as Cyprus, Greece, Malta, and the outermost regions of the Union, have an interest in ensuring that there is a fair balance between the necessity to ensure that effective measures are taken to mitigate the effects of climate change and sustainable cheap air travel.

Lastly experience of the first trading period showed that the price of permits can vary dramatically, causing uncertainty for those considering investing in energy saving or renewable projects and so making such investments less attractive. The new system should include measures to discourage speculation which, as we currently see in other markets ranging from foods to oil, can have highly detrimental effects.

AMENDMENTS

The Committee on Regional Development calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

¹ See Ms Sudre Report on the strategy for outermost regions

Proposal for a directive – amending act
Recital 13

Text proposed by the Commission

(13) The additional effort to be made by the European economy requires inter alia that the revised Community scheme operate with the highest possible degree of economic efficiency and on the basis of fully harmonised conditions of allocation within the Community. ***Auctioning should therefore be the basic principle for allocation, as it is the simplest and generally considered to be*** the most economically efficient system. This should also eliminate windfall profits and put new entrants and higher than average growing economies on the same competitive footing as existing installations.

Amendment

(13) The additional effort to be made by the European economy requires inter alia that the revised Community scheme operate with the highest possible degree of economic efficiency and on the basis of fully harmonised conditions of allocation within the Community. ***Free allocation based on benchmarks and actual production*** is the most economically efficient system ***that can provide for setting incentives for low carbon technologies and for the achievement of the reduction target***. This should also eliminate windfall profits and put new entrants and higher than average growing economies on the same competitive footing as existing installations.

Justification

To establish a cost efficient and effective emissions trading scheme that really helps meeting the reduction targets at minimal costs auctioning is not the best option. Allocation based on benchmarks and actual production is the better system that provides for ecological effectiveness at minimum costs as proven by the current ECOFYS study for IFIEC.

Amendment 2

Proposal for a directive – amending act
Recital 14

Text proposed by the Commission

(14) All Member States will need to make substantial investments to reduce the carbon intensity of their economies by 2020 and those Member States where income per capita is still significantly below the Community average and whose economies are in the process of catching up with the richer Member States will need to make a significant effort to improve energy efficiency. The objectives

Amendment

deleted

of eliminating distortions to intra-Community competition and of ensuring the highest degree of economic efficiency in the transformation of the EU economy towards a low carbon economy make it inappropriate to treat economic sectors differently under the Community scheme in individual Member States. It is therefore necessary to develop other mechanisms to support the efforts of those Member States with relatively lower income per capita and higher growth prospects. 90% of the total quantity of allowances to be auctioned should be distributed amongst Member States according to their relative share of 2005 emissions in the Community scheme. 10% of this quantity should be distributed to the benefit of those Member States for the purpose of solidarity and growth in the Community, to be used to reduce emissions and adapt to the effects of climate change. This distribution of this 10% should take into account levels of income per capita in the year 2005 and the growth prospects of Member States, and be higher for Member States with low income levels per head and high growth prospects. Member States with an average level of income per capita that is more than 20% higher than the average in the Community should contribute to this distribution, except where the direct costs of the overall package estimated in SEC(2008) 85 exceed 0.7% of GDP.

Justification

This adaptation is necessary for the adoption of the benchmark scheme.

Amendment 3

Proposal for a directive – amending act
Recital 15

Text proposed by the Commission

Amendment

(15) Given the considerable efforts of combating climate change and of adapting to its inevitable effects, it is appropriate that at least 20% of the proceeds from the auctioning of allowances should be used to reduce greenhouse gas emissions, to adapt to the impacts of climate change, to fund research and development for reducing emissions and adaptation, to develop renewable energies to meet the EU's commitment to using 20% renewable energies by 2020, to meet the commitment of the Community to increase energy efficiency by 20% by 2020, for the capture and geological storage of greenhouse gases, to contribute to the Global Energy Efficiency and Renewable Energy Fund, for measures to avoid deforestation and facilitate adaptation in developing countries, and for addressing social aspects such as possible increases in electricity prices in lower and middle income households. This proportion is significantly below the expected net revenues for public authorities from auctioning, taking into account potentially reduced income from corporate taxes. In addition, proceeds from auctioning of allowances should be used to cover administrative expenses of the management of the Community scheme. Provisions should be included on monitoring the use of funds from auctioning for these purposes. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87

deleted

and 88 of the Treaty.

Justification

This adaptation is necessary for the adoption of the benchmark scheme.

Amendment 4

**Proposal for a directive – amending act
Recital 16**

Text proposed by the Commission

(16) Consequently, **full auctioning** should be the rule from 2013 onwards for **the power sector, taking into account their ability to pass on the increased cost of CO₂, and no free allocation should be given for carbon capture and storage as the incentive for this arises from allowances not being required to be surrendered in respect of emissions which are stored. Electricity generators may receive free allowances for heat produced through high efficiency cogeneration as defined by Directive 2004/8/EC in the event that such heat produced by installations in other sectors were to be given free allocations, in order to avoid distortions of competition.**

Amendment

(16) **Emission allowance trading is an instrument that should help meet the CO₂ reduction targets at minimal cost. Free allocation based on benchmarks and actual production sets the necessary incentives for efficiency improvements. Costs arising from emission allowance trading, both for participating installations as well as indirectly for consumers, can thereby be limited to the financial needs for abating the CO₂ emissions to be reduced in accordance with the target set. The CO₂ emissions still allowed in line with the cap will consequently not generate costs for the Community. They will do so only when they fall under a future, strengthened reduction target. Such a limitation does not jeopardize the climate change policy goals at all. The achievement of the CO₂ reduction target can be safeguarded by setting the benchmarks correctly. The option of a downward adjustment of the benchmarks in subsequent years makes it actually possible to meet the overall reduction target. Consequently, free allocation based on benchmarks and actual production should be the rule from 2013 onwards for all sectors and during the entire period.**

Justification

To establish a cost efficient and effective emissions trading scheme that really helps meeting

the reduction targets at minimal costs auctioning is not the best option. Allocation based on benchmarks and actual production is the better system that provides for ecological effectiveness at minimum costs as proven by the current ECOFYS study for IFIEC.

Amendment 5

Proposal for a directive – amending act Recital 17

Text proposed by the Commission

Amendment

(17) For other sectors covered by the Community scheme, a transitional system should be foreseen for which free allocation in 2013 would be 80% of the amount that corresponded to the percentage of the overall Community-wide emissions throughout the period 2005 to 2007 that those installations emitted as a proportion of the annual Community-wide total quantity of allowances. Thereafter, the free allocation should decrease each year by equal amounts resulting in no free allocation in 2020.

deleted

Justification

Price of carbon should be included in products in full to guide market towards more climate friendly consumption. Free allocation distorts the functioning of the market mechanism whereas full auctioning would save a large bureaucracy and reward best-performers. Carbon leakage and unfair competition to European production from countries that have not committed to comprehensive international agreement on climate change should be neutralised by foreign allowance import requirement.

Amendment 6

Proposal for a directive – amending act Recital 18

Text proposed by the Commission

Amendment

(18) Transitional free allocation to installations should be provided for through harmonised Community-wide rules ("benchmarks") in order to minimise

(18) Free allocation to installations should be provided for through harmonised Community-wide rules ("benchmarks") in order to minimise distortions of

distortions of competition with the Community. These rules should take account of the most greenhouse gas and energy efficient techniques, *substitutes, alternative production processes, use of biomass, renewables and greenhouse gas capture and storage*. Any such rules should not give incentives to increase emissions *and ensure that an increasing proportion of these allowances is auctioned. Allocations must be fixed prior to the trading period so as to enable the market to function properly. They shall also avoid undue distortions of competition on the markets for electricity and heat supplied to industrial installations. These rules should apply to new entrants carrying out the same activities as existing installations receiving transitional free allocations. To avoid any distortion of competition within the internal market, no free allocation should be made in respect of the production of electricity by new entrants. Allowances which remain in the set-aside for new entrants in 2020 should be auctioned.*

competition with the Community. These rules should take account of the most greenhouse gas and energy efficient techniques. Any such rules should not give incentives to increase emissions *from inefficient installations.*

Justification

The principle allocation mechanism should be benchmarks based on actual production for all sectors. Therefore no additional provision regarding new entrants etc. are necessary and can be deleted. Allocation based on benchmarks and actual production gives space for growth of efficient generators to the expense of inefficient and to the benefit of the overall climate policy goal.

Amendment 7

Proposal for a directive – amending act Recital 19

Text proposed by the Commission

(19) The Community will continue to take the lead in the negotiation of an ambitious international agreement that will achieve the objective of limiting global temperature

Amendment

(19) The Community will continue to take the lead in the negotiation of an ambitious international agreement that will achieve the objective of limiting global temperature

increase to 2°C and is encouraged by the progress made in Bali towards this objective. In the event that other developed countries and other major emitters of greenhouse gases do not participate in this international agreement, this could lead to an increase in greenhouse gas emissions in third countries where industry would not be subject to comparable carbon constraints (“carbon leakage”), and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage. This could undermine the environmental integrity and benefit of actions by the Community. To address the risk of carbon leakage, the Community will ***allocate allowances free of charge up to 100% to sectors or sub-sectors meeting the relevant criteria. The definition of these sectors and sub-sectors and the measures required will be subject to re-assessment to ensure that action is taken where necessary and to avoid overcompensation. For those specific sectors or sub-sectors where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently, the action taken may take into account the electricity consumption in the production process, without changing the total quantity of allowances.***

increase to 2°C and is encouraged by the progress made in Bali towards this objective. In the event that other developed countries and other major emitters of greenhouse gases do not participate in this international agreement, this could lead to an increase in greenhouse gas emissions in third countries where industry would not be subject to comparable carbon constraints (“carbon leakage”), and at the same time could put certain energy-intensive sectors and sub-sectors in the Community which are subject to international competition at an economic disadvantage. This could undermine the environmental integrity and benefit of actions by the Community. To address the risk of carbon leakage, the Community will ***also adopt the scheme of allowances free of charge based on a benchmark in sectors or sub-sectors meeting the relevant criteria.***

Justification

The benchmark scheme on the basis of the best technology available provides for the most efficient and most cost effective solution.

Amendment 8

**Proposal for a directive – amending act
Recital 20**

Text proposed by the Commission

(20) The Commission should therefore review the situation by **June 2011** at the latest, consult with all relevant social partners, and, in the light of the outcome of the international negotiations, submit a report accompanied by any appropriate proposals. In this context, the Commission should identify which energy intensive industry sectors or sub-sectors are likely to be subject to carbon leakage not later than **30 June 2010**. It should base its analysis on the assessment of the inability to pass on the cost of required allowances in product prices without significant loss of market share to installations outside the Community not taking comparable action to reduce emissions. ***Energy-intensive industries which are determined to be exposed to a significant risk of carbon leakage could receive a higher amount of free allocation or an effective carbon equalisation system could be introduced with a view to putting installations from the Community which are at significant risk of carbon leakage and those from third countries on a comparable footing. Such a system could apply requirements to importers that would be no less favourable than those applicable to installations within the EU, for example by requiring the surrender of allowances. Any action taken would need to be in conformity with the principles of the UNFCCC, in particular the principle of common but differentiated responsibilities and respective capabilities, taking into account the particular situation of Least Developed Countries. It would also need to be in conformity with the international obligations of the Community including the WTO agreement.***

Amendment

(20) The Commission should therefore review the situation by **June 2010** at the latest, consult with all relevant social partners, and, in the light of the outcome of the international negotiations, submit a report accompanied by any appropriate proposals. In this context, the Commission should identify which energy intensive industry sectors or sub-sectors are likely to be subject to carbon leakage not later than **30 June 2009**. It should base its analysis on the assessment of the inability to pass on the cost of required allowances in product prices without significant loss of market share to installations outside the Community not taking comparable action to reduce emissions.

Justification

The adoption of the benchmark scheme will lead to a minimisation of the risk of "carbon leakage". However, it is not plausible why the identification of sectors that could be affected by carbon leakage is only foreseen for 2010. This would simply delay any necessary investment. One year should be enough for the Commission to come to a decision.

Amendment 9

Proposal for a directive— amending act Recital 33

Text proposed by the Commission

(33) [As regards the approach to allocation, aviation should be treated ***as other industries which receive transitional free allocation rather than as electricity generators***. This means that 80% of allowances should be allocated for free in 2013, and thereafter the free allocation to aviation should decrease each year by equal amounts resulting in no free allocation in 2020. The Community and its Member States should continue to seek to reach an agreement on global measures to reduce greenhouse gas emissions from aviation and review the situation of this sector as part of the next review of the Community scheme.]

Amendment

(33) [As regards the approach to allocation, aviation should be treated ***in a manner which reflects its ability to find replacement fuels in the medium to long term***. This means that 80% of allowances should be allocated for free in 2013, and thereafter the free allocation to aviation should decrease each year by equal amounts resulting in no free allocation in 2020. The Community and its Member States should continue to seek to reach an agreement on global measures to reduce greenhouse gas emissions from aviation and review the situation of this sector as part of the next review of the Community scheme. ***The Commission should adopt all the necessary measures to alleviate possible negative economic and social effects on the European Union's remotest regions and islands (including small island Member States) and thinly-populated Northern areas to which the provisions of this directive apply.***]

Amendment 10

Proposal for a directive – amending act

Recital 34

Text proposed by the Commission

(34) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. In particular power should be conferred on the Commission to adopt measures for the **auktioning** of allowances, **for transitional Community-wide allocation of allowances**, for the monitoring, reporting and verification of emissions, for the accreditation of verifiers and for implementing harmonised rules for projects. Since those measures are of general scope and are designed to amend non-essential elements of this Directive and to supplement this Directive by the addition or modification of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Amendment

(34) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. In particular power should be conferred on the Commission to adopt measures for the **allocation** of allowances **within the benchmark scheme**, for the monitoring, reporting and verification of emissions, for the accreditation of verifiers and for implementing harmonised rules for projects. Since those measures are of general scope and are designed to amend non-essential elements of this Directive and to supplement this Directive by the addition or modification of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Justification

There is no transitional free of charge allocation, because the benchmark scheme is to be applied for energy intensive industries as well. Within the benchmark scheme an auctioning should only take place, if a site falls short of the benchmark.

Amendment 11

Proposal for a directive – amending act

Article 1 – point 6

Directive 2003/87/EC

Article 9a - paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Should the amount of allowances additionally allocated to operators in a

specific sector due to production increases in accordance with the second sentence of Article 10a(2) exceed the amount of allowances returned by operators in that sector due to reduced reduction according to the ex-post adjustments, the benchmarks for this specific sector shall be reduced in the year following the year in which the imbalance occurred in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)] in a way that ensures the achievement of an overall reduction of emissions falling within the scope of Article 9. For this purpose, the competent authorities shall inform the Commission by 30 April each year whether the quantity of emission allowances has been exceeded.

Justification

Allocating free allowances with ex post adjustment for actual production ensures achieving the CO₂ reduction target and providing for efficient growth as well as for avoidance of windfall profits (shown by ECOFYS study on IFIEC method). In case of increased production, ex post adjustment might entail additional allowances in one year. Fulfilment of the overall target, however, has to be ensured. Therefore, if allocated allowances exceed the plan, the different benchmarks will be adjusted downwards according to a correction mechanism to be established in accordance with Art 23(3).

Amendment 12

Proposal for a directive – amending act

Article 1 – point 7

Directive 2003/87/EC

Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Auctioning of allowances

1. From 2013 onwards, Member States shall auction all allowances which are not allocated free of charge in accordance with Article 10a.

2. The total quantity of allowances to be

auctioned by each Member State shall be composed as follows:

(a) 90% of the total quantity of allowances to be auctioned being distributed amongst Member States in shares that are identical to the share of verified emissions under the Community scheme in 2005 of the Member State concerned;

(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 the purposes of point (a), in respect of Member States which did not participate in the Community scheme in 2005, their share shall be calculated using their verified Community scheme emissions under the Community scheme in 2007.

If necessary, the percentages referred to in point (b) of the first subparagraph shall be adapted in a proportional manner to ensure that the redistribution is 10%.

3. At least 20% of the revenues generated from the auctioning of allowances referred to in paragraph 2, including all revenues from the auctioning referred to in point (b) thereof, should be used for the following:

(a) to reduce greenhouse gas emissions, including by contributing to the Global Energy Efficiency and Renewable Energy Fund, to adapt to the impacts of climate change and to fund research and development for reducing emissions and adapting, including participation in initiatives within the framework of European Strategic Energy Technology Plan;

(b) to develop renewable energies to meet the commitment of the Community to using 20% renewable energies by 2020, and to meet the commitment of the Community to increase energy efficiency by 20% by 2020;

(c) for the capture and geological storage of greenhouse gases, in particular from coal power stations;
(d) for measures to avoid deforestation, in particular in Least Developed Countries;
(e) to facilitate developing countries' adaptation to the impacts of climate change;
(f) to address social aspects in lower and middle income households, for example by increasing their energy efficiency and insulation; and
(g) to cover administrative expenses of the management of the Community scheme.

4. Member States shall include information on the use of revenues for each of these purposes in their reports submitted under Decision No 280/2004/EC.

5. By 31 December 2010, the Commission shall adopt a Regulation on timing, administration and other aspects of auctioning to ensure that it is conducted in an open, transparent and non-discriminatory manner. Auctions shall be designed to ensure that operators, and in particular any small and medium size enterprises covered by the Community scheme, have full access and any other participants do not undermine the operation of the auction. That measure, designed to amend nonessential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)]."

Justification

Auctioning within ETS means maximum cost for all consumers without additional benefits for CO₂ reduction. It means nothing less than a new tax on CO₂ to be paid by consumers. In order to save up to €55 bn per year for EU consumers and to keep power prices 20 – 30 €/MWh lower without questioning the effectiveness of ETS, it should not be based on auctioning. Free allocation based on benchmarks and actual production can provide for a cost efficient and ecologically effective instrument.

Amendment 13

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 1

Text proposed by the Commission

1. The Commission shall, by **30 June 2011**, adopt Community wide and fully-harmonised implementing measures for allocating the allowances referred to in paragraphs 2 **to 6 and 8** in a harmonised manner.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)].

The measures referred to in the first subparagraph shall, to the extent feasible, ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions, by taking account of the most efficient techniques, ***substitutes, alternative production processes, use of biomass and greenhouse gas capture and storage***, and shall not give incentives to increase emissions. ***No free allocation shall be made in respect of any electricity production.***

The Commission shall, upon the conclusion by the Community of an international agreement on climate change leading to mandatory reductions of greenhouse gas emissions comparable to those of the Community, review those measures to provide that free allocation

Amendment

1. ***From 2013 onwards, Member States shall allocate all allowances free of charge for the entire period.*** The Commission shall, by **30 June 2009** adopt Community wide and fully harmonised implementing measures for allocating the allowances referred to in paragraphs 2 **and 3** in a harmonised manner.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)]. ***The definition of sectors to which the directive applies constitutes however an essential element and any amendment thereto shall therefore form the subject of a regulation.***

The measures referred to in the first subparagraph shall, to the extent feasible, ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions, by taking account of the most efficient techniques and shall not give incentives to increase emissions.

only takes place where this is fully justified in the light of that agreement.

Justification

Auctioning of allowances is unnecessary for the achievement of the EU CO₂ reduction target; it would entail massive energy price increases, harm the industry's competitiveness and withdraw purchasing power from consumers. Free allocation linked to EU-wide benchmarks with ex post adjustment (taking regard of actual production) is the better option.

Amendment 14

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 2

Text proposed by the Commission

2. Subject to paragraph 3, no free allocation shall be given to electricity generators, to installations for the capture, pipelines for the transport or to storage sites for greenhouse gas emissions.

Amendment

2. Installations shall be allocated the number of allowances corresponding to the arithmetical product of the expected average annual production volume, the installation's respective benchmark, as well as the number of calendar years within the allocation period since commissioning. Should the production volume in any calendar year deviate from the expected average annual production, the operator shall, in the event of a decrease in production, return, by 30 April of the following year, the number of allowances to the relevant authority that results from the multiplication of the reduced production volume with the benchmark allocated to the plant. In the event of an increase in production, the relevant authority shall, upon application and by 30 April of the following year, allocate additional allowances on the basis of the same calculation. The benchmarks shall be laid down in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)]. They shall take into account the technical reduction potential of the plants in

question. Technically unavoidable process-related emissions shall not be reduced when determining the benchmark. The same shall apply to unavoidable waste gases. Where a waste gas is used as a fuel, allowances should be allocated to the operator of the installation generating the waste gas according to the same allocation principles as are applied under this paragraph.

Justification

Allocation should be free of charge according to the EU-wide benchmark, with ex post adjustment in accordance with actual production. This allocation method provides for an effective climate change instrument at efficient cost for the whole economy. This allocation model is implemented in the new paragraph 2.

Amendment 15

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. a) Should no benchmarks have been laid down for certain products or processes in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)], the installation in question shall be allocated emission allowances according to the annual average allocation for the second ETS trading period, adjusted by the linear factor in accordance with Article 9. The technical reduction potential of the plants in question shall be taken into consideration.

b) Where products or processes are not covered by the second ETS trading period, "grandfathering" shall apply.

Justification

It has to be assumed that benchmarks could not be generally stipulated for all products and processes for the time being. This might be the case for highly differentiated products which stand for a small proportion of emissions under ETS. Such plants need to be granted their CO₂ allowances according to a “grandfathering” approach.

Amendment 16

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 3

Text proposed by the Commission

3. Free allocation may be given to electricity generators in respect of the production of heat through high efficiency cogeneration as defined by Directive 2004/8/EC for economically justifiable demand to ensure equal treatment with regard to other producers of heat. In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 9.

Amendment

3. Highly efficient combined heat and power plants (CHP) within the meaning of Directive 2004/8/EC shall be granted for an indefinite period free allowances for their power and heat generation on the basis of a benchmark.

Justification

CHP is a corner stone of climate protection. Maintaining and expanding highly efficient CHP is required and supported by Directive 2004/8/EC. It would be counterproductive to introduce additional burden as result from auctioning. In many cases, the respective MS' promotion of CHP plants would fail to deliver the desired results, production from existing CHP would be reduced, future expansion might not be realized. In case of auctioning to be the principle allocation mechanism to electricity generators, such exception of CHP from auctioning supports climate protection.

Amendment 17

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 6 – subparagraph 3

Text proposed by the Commission

Amendment

No free allocation shall be made in respect of any electricity production by new entrants. ***deleted***

Justification

Auctioning CO₂ allowances to electricity generation forms an unnecessary significant cost burden for consumers. A free of charge allocation mechanism based on benchmarks and actual production forms a more efficient ETS.

Amendment 18

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 7

Text proposed by the Commission

Amendment

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be 80% of the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020. ***deleted***

Justification

Auctioning within ETS means maximum cost for all consumers without additional benefits for CO₂ reduction. It means nothing less than a new tax on CO₂ to be paid by consumers. In order to save up to €55 bn per year for EU consumers and to keep power prices 20 – 30 €/MWh lower without questioning the effectiveness of ETS, it should not be based on auctioning. Free allocation based on benchmarks and actual production can provide for a cost efficient and ecologically effective instrument.

Amendment 19

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 8

Text proposed by the Commission

Amendment

8. In 2013 and in each subsequent year up to 2020, installations in sectors which are exposed to a significant risk of carbon leakage shall be allocated allowances free of charge up to 100 percent of the quantity determined in accordance with paragraphs 2 to 6. **deleted**

Justification

Auctioning within ETS means maximum cost for all consumers without additional benefits for CO₂ reduction. It means nothing less than a new tax on CO₂ to be paid by consumers. In order to save up to €55 bn per year for EU consumers and to keep power prices 20 – 30 €/MWh lower without questioning the effectiveness of ETS, it should not be based on auctioning. Free allocation based on benchmarks and actual production can provide for a cost efficient and ecologically effective instrument.

Amendment 20

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 9

Text proposed by the Commission

Amendment

9. At the latest by 30 June 2010 and every 3 years thereafter the Commission shall determine the sectors referred to in paragraph 8. **deleted**
That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [23(3)]. In the determination referred to in the first subparagraph the Commission shall take into account the extent to which it is

possible for the sector or sub-sector concerned to pass on the cost of the required allowances in product prices without significant loss of market share to less carbon efficient installations outside the Community, taking into account the following:

(a) the extent to which auctioning would lead to a substantial increase in production cost;

(b) the extent to which it is possible for individual installations in the sector concerned to reduce emission levels for instance on the basis of the most efficient techniques;

(c) market structure, relevant geographic and product market, the exposure of the sectors to international competition;

(d) the effect of climate change and energy policies implemented, or expected to be implemented outside the EU in the sectors concerned.

For the purposes of evaluating whether the cost increase resulting from the Community scheme can be passed on, estimates of lost sales resulting from the increased carbon price or the impact on the profitability of the installations concerned may inter alia be used.

Justification

Auctioning within ETS means maximum cost for all consumers without additional benefits for CO₂ reduction. It means nothing less than a new tax on CO₂ to be paid by consumers. In order to save up to €55 bn per year for EU consumers and to keep power prices 20 – 30 €/MWh lower without questioning the effectiveness of ETS, it should not be based on auctioning. Free allocation based on benchmarks and actual production can provide for a cost efficient and ecologically effective instrument.

Amendment 21

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10b

deleted

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

Not later than June 2011, the Commission shall, in the light of the outcome of the international negotiations and the extent to which these lead to global greenhouse gas emission reductions, and after consulting with all relevant social partners, submit to the European Parliament and to the Council an analytical report assessing the situation with regard to energy-intensive sectors or sub-sectors that have been determined to be exposed to significant risks of carbon leakage. This shall be accompanied by any appropriate proposals, which may include:

- adjusting the proportion of allowances received free of charge by those sectors or sub-sectors under Article 10a;***
- inclusion in the Community scheme of importers of products produced by the sectors or sub-sectors determined in accordance with Article 10a.***

Any binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall also be taken into account when considering what measures are appropriate."

Justification

Most of these difficulties will be solved by the benchmark scheme. In view of the strongly increasing energy prices the benchmark additionally supports the investment activity in more

effective technologies. This represents another competitive advantage.

Amendment 22

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11 – paragraph 1

Text proposed by the Commission

1. Each Member State shall publish and submit to the Commission, by 30 September 2011, the list of installations covered by this Directive in its territory and any free allocation to each installation in its territory calculated in accordance with the rules referred to in **Article 10a(1)**.

Amendment

1. Each Member State shall publish and submit to the Commission, by 30 September 2011, the list of installations covered by this Directive in its territory and any free allocation to each installation in its territory calculated in accordance with the rules referred to in **Article 10a(2)**.

Justification

This adaptation is necessary for the adoption of the benchmark scheme.

Amendment 23

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/87/EC

Article 11 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States and the Commission shall ensure that regional authorities are provided with relevant information concerning installations in their locality, so as to enable them to assess the effects of European Regional Development Fund or Cohesion Fund expenditure aimed at assisting undertakings operating installations to convert the technology they use to clean or renewable sources of energy.

PROCEDURE

Title	Greenhouse gas emission allowance trading system	
References	COM(2008)0016 – C6-0043/2008 – 2008/0013(COD)	
Committee responsible	ENVI	
Opinion by Date announced in plenary	REGI 19.2.2008	
Drafts(wo)man Date appointed	Kyriacos Triantaphyllides 26.3.2008	
Discussed in committee	8.4.2008	26.6.2008
Date adopted	16.7.2008	
Result of final vote	+: 25 -: 17 0: 5	
Members present for the final vote	Emmanouil Angelakas, Stavros Arnaoutakis, Elspeth Attwooll, Jean Marie Beaupuy, Rolf Berend, Jana Bobošíková, Victor Boştinaru, Wolfgang Bulfon, Antonio De Blasio, Petru Filip, Iratxe García Pérez, Eugenijus Gentvilas, Ambroise Guellec, Zita Gurmai, Marian Harkin, Mieczysław Edmund Janowski, Rumiana Jeleva, Gisela Kallenbach, Tunne Kelam, Evgeni Kirilov, Constanze Angela Krehl, Florencio Luque Aguilar, Jamila Madeira, Sérgio Marques, Miguel Angel Martínez Martínez, Yiannakis Matsis, Miroslav Mikolášik, James Nicholson, Lambert van Nistelrooij, Jan Olbrycht, Maria Petre, Markus Pieper, Pierre Pribetich, Wojciech Roszkowski, Elisabeth Schroedter, Grażyna Staniszevska, Catherine Stihler, Dimitar Stoyanov, Margie Sudre, Oldřich Vlasák	
Substitute(s) present for the final vote	Jan Březina, Emanuel Jardim Fernandes, Lidia Joanna Geringer de Oedenberg, Zita Pleštinská, Samuli Pohjamo, Miloslav Ransdorf	
Substitute(s) under Rule 178(2) present for the final vote	Dimitrios Papadimoulis	

PROCEDURE

Title	Greenhouse gas emission allowance trading system			
References	COM(2008)0016 – C6-0043/2008 – 2008/0013(COD)			
Date submitted to Parliament	23.1.2008			
Committee responsible Date announced in plenary	ENVI 19.2.2008			
Committee(s) asked for opinion(s) Date announced in plenary	INTA 19.2.2008	ECON 19.2.2008	ITRE 19.2.2008	REGI 19.2.2008
Associated committee(s) Date announced in plenary	ITRE 10.4.2008			
Rapporteur(s) Date appointed	Avril Doyle 5.3.2008			
Discussed in committee	26.2.2008	7.5.2008	25.6.2008	10.9.2008
Date adopted	7.10.2008			
Result of final vote	+: 44 -: 20 0: 1			
Members present for the final vote	Adamos Adamou, Georgs Andrejevs, Margrete Auken, Liam Aylward, Pilar Ayuso, Irena Belohorská, Johannes Blokland, John Bowis, Frieda Brepoels, Hiltrud Breyer, Martin Callanan, Dorette Corbey, Magor Imre Csibi, Chris Davies, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Jill Evans, Anne Ferreira, Karl-Heinz Florenz, Elisabetta Gardini, Matthias Groote, Françoise Grossetête, Cristina Gutiérrez-Cortines, Satu Hassi, Gyula Hegyi, Jens Holm, Caroline Jackson, Dan Jørgensen, Christa Klač, Eija-Riitta Korhola, Holger Krahmer, Urszula Krupa, Marie-Noëlle Lienemann, Peter Liese, Jules Maaten, Linda McAvan, Roberto Musacchio, Riitta Myller, Miroslav Ouzký, Frédérique Ries, Guido Sacconi, Daciana Octavia Sărbu, Amalia Sartori, Richard Seeber, Bogusław Sonik, María Sornosa Martínez, Salvatore Tatarella, Antonios Trakatellis, Evangelia Tzampazi, Thomas Ulmer, Anja Weisgerber, Åsa Westlund, Anders Wijkman, Glenis Willmott			
Substitute(s) present for the final vote	Jerzy Buzek, Bairbre de Brún, Johannes Lebech, Caroline Lucas, Eluned Morgan, Hartmut Nassauer, Bart Staes			
Substitute(s) under Rule 178(2) present for the final vote	Domenico Antonio Basile, Ulrike Rodust, Paul Rübig			