Amendment 1
Proposal for a directive
Recital 1

Text proposed by the Commission

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

Amendment

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

Amendment 2
Proposal for a directive
Recital 2

Text proposed by the Commission

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

\(^{16}\) [http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx](http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx)

Amendment

(2a) In order to honour the agreed commitment that all sectors of the economy contribute to the fulfilment of the target of reducing the overall greenhouse gas emissions of the Union by at least 40% below 1990 levels by 2030, it...
is important that the EU ETS, despite being the Union's primary tool to achieve its long-term climate and energy targets, is complemented by equivalent additional actions taken in other legal acts and instruments dealing with greenhouse gas emissions from sectors not covered by the EU ETS.

Amendment 4

Proposal for a directive
Recital 2 b (new)

Text proposed by the Commission

(2b) Under the Agreement adopted in Paris at the 21st Conference of the Parties of the UNFCCC of 12 December 2015 (the ‘Paris Agreement’), countries are required to put policies in place to achieve more than 180 Intended Nationally Determined Contributions (INDCs) that cover some 98% of global greenhouse gas emissions. The Paris Agreement is aimed at limiting the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels. Many of those policies are expected to involve carbon pricing or similar measures, and therefore a revision clause should be laid down in this Directive to allow the Commission, where appropriate, to propose stricter emissions reductions after the first stocktaking exercise under the Paris Agreement in 2023, an adjustment to the provisions for transitional carbon leakage to reflect the development of carbon pricing mechanisms outside the Union, and additional policy measures and tools to enhance the greenhouse gas reduction commitments of the Union and its Member States. The revision clause should also ensure that a communication is adopted within six months of the facilitative dialogue under the UNFCCC in 2018 assessing the consistency of the
Amendment 5

Proposal for a directive
Recital 2 c (new)

Text proposed by the Commission

(2c) In accordance with the Paris Agreement and in line with the commitment of the co-legislators expressed in Directive 2009/29/EC of the European Parliament and of the Council
and Decision No 406/2009/EC of the European Parliament and of the Council, all sectors of the economy are required to contribute to the reduction of carbon dioxide (CO2) emissions. To this end, efforts to limit international maritime emissions through the International Maritime Organisation (IMO) are underway and should be encouraged, with the aim of establishing a clear IMO action plan for climate policy measures to reduce CO2 emissions from shipping at a global level. The adoption of clear targets to reduce international maritime emissions through the IMO has become a matter of great urgency and a prerequisite for the Union to refrain from acting further on the inclusion of the maritime sector within the EU ETS. If, however, any such agreement is not reached by the end of 2021, the sector should be included under the EU ETS and a fund should be established for ship operators' contributions and collective compliance relating to CO2 emissions already covered by the Union system for monitoring, reporting and verification (MRV system) laid down in Regulation (EU) 2015/757 of the European Parliament and of the Council (emissions released in Union ports and during voyages to and from such ports). A share of revenues from the auction of allowances to the maritime sector should be used to improve energy
efficiency and support investments in innovative technologies for the reduction of CO2 emissions in the maritime sector, including short sea shipping and ports.

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Amendment 143

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) The European Council confirmed that a well-functioning, reformed EU ETS with an instrument to stabilise the market will be the main European instrument to achieve this target, with an annual reduction factor of 2.2% from 2021 onwards, free allocation not expiring but existing measures continuing after 2020 to prevent the risk of carbon leakage due to climate policy, as long as no comparable efforts are undertaken in other

Amendment

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

Amendment 7

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

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

Amendment 8

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving this requires continuation of ambitious climate action with the EU ETS major economies. The auction share should be expressed as a percentage figure in the legislation, **which should decline on application of a cross-sectoral correction factor** to enhance planning certainty as regards investment decisions, to increase transparency, to render the overall system simpler and more easily understandable, and to protect those sectors most at risk of carbon leakage from a cross-sectoral correction factor. Those provisions should be kept under review in line with the Paris Agreement and adjusted accordingly if necessary to fulfil the Union’s climate obligations pursuant to that agreement.

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

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Amendment 9
Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

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

Amendment 10
Proposal for a directive
Recital 5

Text proposed by the Commission

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

Amendment 11
Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The auctioning of allowances remains the general rule, with free allocation as the exception. Consequently, and as confirmed by the European Council, the share of allowances to be auctioned, which was 57% over the period 2013-2020, should not be reduced. The Commission's Impact Assessment provides details on the auction share and specifies that this 57% share is made up of allowances auctioned on behalf of Member States, including allowances set aside for new entrants but not allocated, allowances for modernising electricity generation in some Member States and allowances which are to be auctioned at a later point in time because of their placement in the Market Stability Reserve established by Decision (EU) 2015/… of the European Parliament and of the Council.

Amendment

(6) The auctioning of allowances remains the general rule, with free allocation as the exception. Consequently, the share of allowances to be auctioned, which should be 57% over the period 2021-2030, should be reduced on application of the cross sectoral correction factor to protect those sectors most exposed to the risk of carbon leakage. The Commission's Impact Assessment provides details on the auction share and specifies that this 57% share is made up of allowances auctioned on behalf of Member States, including allowances set aside for new entrants but not allocated, allowances for modernising electricity generation in some Member States and allowances which are to be auctioned at a later point in time because of their placement in the Market Stability Reserve established by Decision (EU) 2015/1814 of the European Parliament and of the Council. A just Transition Fund should be established to support regions with a high share of workers in carbon-
dependent sectors and a GDP per capita well below the Union average.

18 SEC(2015)XX


Amendment 12

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) To preserve the environmental benefit of emission reductions in the Union while actions by other countries do not provide comparable incentives to industry to reduce emissions, free allocation should continue to installations in sectors and sub-sectors at genuine risk of carbon leakage. Experience gathered during the operation of the EU ETS confirmed that sectors and sub-sectors are at risk of carbon leakage to varying degrees, and that free allocation has prevented carbon leakage. While some sectors and sub-sectors can be deemed at a higher risk of carbon leakage, others are able to pass on a considerable share of the costs of allowances to cover their emissions in product prices without losing market share and only bear the remaining part of the costs so that they are at a low risk of carbon leakage. The Commission should determine and differentiate the relevant sectors based on their trade intensity and their emissions intensity to better identify sectors at a genuine risk of carbon leakage. Where, based on these criteria, a threshold determined by taking into account the respective possibility for sectors and sub-sectors concerned to pass

Amendment

(7) To preserve the environmental benefit of emission reductions in the Union while actions by other countries do not provide comparable incentives to industry to reduce emissions, free allocation should temporarily continue to installations in sectors and sub-sectors at genuine risk of carbon leakage. Experience gathered during the operation of the EU ETS confirmed that sectors and sub-sectors are at risk of carbon leakage to varying degrees, and that free allocation has prevented carbon leakage. While some sectors and sub-sectors can be deemed at a higher risk of carbon leakage, others are able to pass on a considerable share of the costs of allowances to cover their emissions in product prices without losing market share and only bear the remaining part of the costs so that they are at a low risk of carbon leakage. The Commission should determine and differentiate the relevant sectors based on their trade intensity and their emissions intensity to better identify sectors at a genuine risk of carbon leakage. Where, based on these criteria, a threshold determined by taking into account the respective possibility for
on costs in product prices is exceeded, the sector or sub-sector should be deemed at risk of carbon leakage. Others should be considered at a low risk or at no risk of carbon leakage. Taking into account the possibilities for sectors and sub-sectors outside of electricity generation to pass on costs in product prices should also reduce windfall profits. The risk of carbon leakage in sectors and subsectors for which free allocation is calculated on the basis of the benchmark values for aromatics, hydrogen and syngas should also be assessed considering that these products are produced both in chemical plants and refineries.

Amendment 13
Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In order to reflect technological progress in the sectors concerned and adjust them to the relevant period of allocation, provision should be made for the values of the benchmarks for free allocations to installations, determined on the basis of data from the years 2007-8, to be updated in line with observed average improvement. For reasons of predictability, this should be done through applying a factor that represents the best assessment of progress across sectors, which should then take into account robust, objective and verified data from installations so that sectors whose rate of improvement differs considerably from this factor have a benchmark value closer to their actual rate of improvement. Where the data shows a difference from factor reduction of more than 0.5% of the 2007-8 value higher or lower per year over the relevant period, the related benchmark value shall be adjusted by that percentage. To ensure a level playing field for the production of sectors and sub-sectors concerned to pass on costs in product prices is exceeded, the sector or sub-sector should be deemed at risk of carbon leakage. Others should be considered at a low risk or at no risk of carbon leakage. Taking into account the possibilities for sectors and sub-sectors outside of electricity generation to pass on costs in product prices should also reduce windfall profits. The risk of carbon leakage in sectors and subsectors for which free allocation is calculated on the basis of the benchmark values for aromatics, hydrogen and syngas should also be assessed considering that these products are produced both in chemical plants and refineries.

Amendment

(8) In order to reflect technological progress in the sectors concerned and adjust them to the relevant period of allocation, provisions should be made for the values of the benchmarks for free allocations to installations, determined on the basis of data from the years 2007 and 2008, to be updated in line with observed average improvement. For reasons of predictability, this should be done through applying a factor that represents the actual assessment of progress by the 10% most efficient installations in sectors, which should then take into account robust, objective and verified data from installations so that sectors whose rate of improvement differs considerably from this factor have a benchmark value closer to their actual rate of improvement. Where the data shows a difference from factor reduction of more than 1.75% of the value corresponding to the years of 2007 and 2008 (either higher or lower) per year over the relevant period, the related benchmark
aromatics, hydrogen and syngas in refineries and chemical plants, the benchmark values for aromatics, hydrogen and syngas should continue to be aligned to the refineries benchmarks.

Amendment 14
Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Member States should partially compensate, in accordance with state aid rules, certain installations in sectors or sub-sectors which have been determined to be exposed to a significant risk of carbon leakage because of costs related to greenhouse gas emissions passed on in electricity prices. The Protocol and accompanying decisions adopted by the Conference of the Parties in Paris need to provide for the dynamic mobilisation of climate finance, technology transfer and capacity building for eligible Parties, particularly those with least capabilities. Public sector climate finance will continue to play an important role in mobilising resources after 2020. Therefore, auction revenues should also be used for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate change. The amount of climate finance to be mobilised will also depend on the ambition and quality of the proposed Intended Nationally Determined Contributions (INDCs), subsequent investment plans and national adaptation planning processes. Member States should also address the social aspects of decarbonising their economies and use auction revenues to promote skill formation and reallocation of labour affected by the transition of jobs in a decarbonising economy. It should be possible for Member States to add to the compensation received through the

Amendment

(9) In pursuing the goal of a level playing field, Member States should partially compensate, through a centralised system at Union level, certain installations in sectors or sub-sectors which have been determined to be exposed to a significant risk of carbon leakage because of costs related to greenhouse gas emissions passed on in electricity prices. Public sector climate finance will continue to play an important role in mobilising resources after 2020. Therefore, auction revenues should also be used for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate change. The amount of climate finance to be mobilised will also depend on the ambition and quality of the proposed INDCs, subsequent investment plans and national adaptation planning processes. Member States should also
affected by the transition of jobs in a decarbonising economy.

centralised system at Union level. Such financial measures should not exceed the levels referred to in the relevant state aid guidelines.

Amendment 15
Proposal for a directive
Recital 10

(10) The main long-term incentive from this Directive for the capture and storage of CO2 (CCS), new renewable energy technologies and breakthrough innovation in low-carbon technologies and processes is the carbon price signal it creates and that allowances will not need to be surrendered for CO2 emissions which are permanently stored or avoided. In addition, to supplement the resources already being used to accelerate demonstration of commercial CCS facilities and innovative renewable energy technologies, EU ETS allowances should be used to provide guaranteed rewards for deployment of CCS facilities, new renewable energy technologies and industrial innovation in low-carbon technologies and processes in the Union for CO2 stored or avoided on a sufficient scale, provided an agreement on knowledge sharing is in place. The majority of this support should be dependent on verified avoidance of greenhouse gas emissions, while some support may be given when pre-determined milestones are reached taking into account the technology deployed. The maximum percentage of project costs to be supported may vary by category of project.

Amendment 16
Proposal for a directive
Recital 11

(10) The main long-term incentive from this Directive for carbon capture and storage (CCS) and carbon capture and use (CCU), new renewable energy technologies and breakthrough innovation in low-carbon technologies and processes is the carbon price signal it creates and that allowances will not need to be surrendered for CO2 emissions which are permanently stored or avoided. In addition, to supplement the resources already being used to accelerate demonstration of commercial CCS and CCU facilities and innovative renewable energy technologies, EU ETS allowances should be used to provide guaranteed rewards for deployment of CCS and CCU facilities, new renewable energy technologies and industrial innovation in low-carbon technologies and processes in the Union for CO2 stored or avoided on a sufficient scale, provided an agreement on knowledge sharing is in place. The majority of this support should be dependent on verified avoidance of greenhouse gas emissions, while some support may be given when pre-determined milestones are reached taking into account the technology deployed. The maximum percentage of project costs to be supported may vary by category of project.
(11) A Modernisation Fund should be established from 2% of the total EU ETS allowances, and auctioned in accordance with the rules and modalities for auctions taking place on the Common Auction Platform set out in Regulation 1031/2010. Member States who in 2013 had a GDP per capita at market exchange rates of below 60% below the Union average should be eligible for funding from the Modernisation Fund and derogate up to 2030 from the principle of full auctioning for electricity generation by using the option of free allocation in order to transparently promote real investments modernising their energy sector while avoiding distortions of the internal energy market. The rules for governing the Modernisation Fund should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access by all participants. The function of the governance structure should be commensurate with the purpose of ensuring the appropriate use of the funds. That governance structure should be composed of an investment board and a management committee and due account should be taken of the expertise of the EIB in the decision-making process unless support is provided to small projects through loans from a national promotional banks or through grants via a national programme sharing the objectives of the Modernisation Fund. Investments financed from the fund should be proposed by the Member States and all financing from the fund should comply with specific eligibility criteria. To ensure that the investment needs in low income Member
States are adequately addressed, the distribution of funds will take into account in equal shares verified emissions and GDP criteria. The financial assistance from the Modernisation Fund could be provided through different forms.

Amendment 17

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) The European Council confirmed that the modalities, including transparency, of the optional free allocation to modernise the energy sector in certain Member States should be improved. Investments with a value of €10 million or more should be selected by the Member State concerned through a competitive bidding process on the basis of clear and transparent rules to ensure that free allocation is used to promote real investments modernising the energy sector in line with the Energy Union objectives. Investments with a value of less than €10 million should also be eligible for funding from the free allocation. The Member State concerned should select such investments based on clear and transparent criteria. The results of this selection process should be subject to public consultation. The public should be duly kept informed at the stage of the selection of investment projects as well as of their implementation.

Amendment

(12) The European Council confirmed that the modalities, including transparency, of the optional free allocation to modernise and diversify the energy sector in certain Member States should be improved. Investments with a value of EUR 10 million or more should be selected by the Member State concerned through a competitive bidding process on the basis of clear and transparent rules to ensure that free allocation is used to promote real investments modernising or diversifying the energy sector in line with the Energy Union objectives, including that of promoting the Third Energy Package. Investments with a value of less than EUR 10 million should also be eligible for funding from the free allocation. The Member State concerned should select such investments based on clear and transparent criteria. The selection process should be subject to public consultation and the results of such selection process, including rejected projects, should be made publically available. The public should be duly kept informed at the stage of the selection of investment projects as well as of their implementation. Member States should have the possibility of transferring part of or all the corresponding allowances to the Modernisation Fund if they are eligible to use both instruments. The derogation should be terminated by the end of the trading period in 2030.
Amendment 18
Proposal for a directive
Recital 13

*Text proposed by the Commission*

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

*Amendment*

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

Amendment 19
Proposal for a directive
Recital 14

*Text proposed by the Commission*

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

*Amendment*

(14) The existing provisions which are in place for small installations to be excluded from the EU ETS *should be extended to cover installations operated by small to medium enterprises (SMEs) emitting less than 50 000 tonnes of CO2 equivalent in each of the three years preceding the year of the application for exclusion*. It should be made possible for Member States to update their list of excluded installations and for Member States currently not making use of this option to do so at the beginning of each trading period *and halfway through the period*. It should also be possible for installations emitting less than 5 000 tonnes of CO2 equivalent in each of the three years preceding the beginning of each trading period to be excluded from the EU ETS, subject to revision every five years. Member States should ensure that alternative equivalent measures for installations that have opted out do not result in higher compliance costs.
Monitoring, reporting and verification requirements should be simplified for small emitters covered by the EU ETS.

Amendment 20
Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) In order to considerably reduce the administrative burden faced by companies, it should be left open to the Commission to consider measures such as automating the submission and verification of emissions reports, fully exploiting the potential of information and communication technologies.

Amendment 21
Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission

Amendment

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

Amendment 22
Proposal for a directive
Article 1 – point -1 (new)

Text proposed by the Commission

Amendment

(-1) Throughout the Directive, the term 'Community scheme' is replaced by 'EU ETS' and any necessary grammatical changes are made.
Amendment 23
Proposal for a directive
Article 1 – point -1 a (new)

Text proposed by the Commission

Amendment

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

Amendment 24
Proposal for a directive
Article 1 – point -1 b (new)

Text proposed by the Commission

Amendment

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

Amendment 25
Proposal for a directive
Article 1 – point -1 c (new)

Text proposed by the Commission

Amendment

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

Amendment 26
Proposal for a directive
Article 1 – point -1 d (new)
Amendment 28

Proposal for a directive
Article 1 – point -1 f (new)
Directive 2003/87/EC
Article 3 – point h

Present text

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

Amendment

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

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

Amendment 29

Proposal for a directive
Article 1 – point -1 g (new)
Directive 2003/87/EC
Article 3 – point u a (new)

Text proposed by the Commission

Amendment

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

'(ua) ‘small emitter’ means an installation with low emissions which is operated by a small or medium-sized enterprise¹a and that meets at least one of the following criteria:

– the average annual verified emissions of that installation reported to the relevant competent authority during the trading period immediately preceding the current trading period, with the exclusion of CO2 stemming from biomass and before any subtraction of transferred CO2, is less than 50 000 tonnes of carbon dioxide equivalent per year;

– the average annual emissions data referred to in the first indent are not available in relation to that installation or are no longer applicable to that installation because of changes in the installation's boundaries or changes to the operating conditions of the installation, but the annual emissions of that installation for the following five years, with the exclusion of CO2 stemming from biomass and before subtraction of transferred CO2, are expected to be less than 50 000 tonnes of carbon dioxide equivalent per year.'

¹a As defined in Annex of recommendation 2003/361/EC

Amendment 30

Proposal for a directive
Article 1 – point -1 h (new)
Directive 2003/87/EC
Article 3c – paragraph 2
'2. For the period referred to in Article 13(1) beginning on 1 January 2013, and, in the absence of any amendments following the review referred to in Article 30(4), for each subsequent period, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 95 % of the historical aviation emissions multiplied by the number of years in the period.

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

For aviation activities to and from aerodromes located in countries outside the EEA, the quantity of allowances to be allocated from 2021 onwards may be adjusted taking into account the future global market-based mechanism agreed by the International Civil Aviation Organisation (ICAO) in its 39th assembly. By 2019, the Commission shall present a legislative proposal to the European Parliament and the Council concerning those activities following the 40th assembly of the ICAO.

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

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

Amendment 31
Proposal for a directive
Article 1 – point -1 i (new)
Directive 2003/87/EC
Article 3c – paragraph 4

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

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

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

For aviation activities to and from aerodromes located in countries outside the EEA, the quantity of allowances to be allocated from 2021 onwards may be adjusted taking into account the future global market-based mechanism agreed by the International Civil Aviation Organisation (ICAO) in its 39th assembly. By 2019, the Commission shall present a legislative proposal to the European Parliament and the Council concerning those activities following the 40th assembly of the ICAO.

This percentage may be reviewed as part of the general review of this Directive.'
That decision shall be considered within the Committee referred to in Article 23(1).

Amendment 32
Proposal for a directive
Article 1 – point -1 j (new)
Directive 2003/87/EC
Article 3d – paragraph 2

Present text

'2. From 1 January 2013, 15 % of allowances shall be auctioned. This percentage may be increased as part of the general review of this Directive.'

Amendment

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

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

Amendment 33
Proposal for a directive
Article 1 – point 1
Directive 2003/87/EC
Article 3d – paragraph 3

Text proposed by the Commission

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

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

Amendment

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

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

Amendment 34

Proposal for a directive
Article 1 – point 1 a (new)
Directive 2003/87/EC
Article 3d – paragraph 4 – subparagraph 1

Present text

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

Amendment

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

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

Amendment 35

Proposal for a directive
Article 1 – point 1 b (new)
DIRECTIVE 2003/87/EC

Article 3e – paragraph 1 a (new)

(Present text)

Amendment

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

1a. From 2021 onwards, no free allocation of allowances under this Directive shall be granted to the aviation sector unless it is confirmed by a subsequent decision adopted by the European Parliament and the Council, since ICAO Resolution A-39/3 envisages that a global market-based measure is to apply from 2021. In that respect, the co-legislators shall take into account the interaction between that market-based measure and the EU ETS.'

Amendment 36

Proposal for a directive

Article 1 – point 2 a (new)

Directive 2003/87/EC

Chapter II a (new)

(Text proposed by the Commission)

Amendment

(2a) The following Chapter is inserted:

'CHAPTER IIa

Inclusion of shipping in the absence of progress at international level

Article 3ga

Introduction

As from 2021, in the absence of a comparable system operating under the IMO, CO2 emissions emitted in Union ports and during voyages to and from Union ports of call, shall be accounted for through the system set out in this Chapter, to be operational from 2023.

Article 3gb

Scope

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

Article 3gc

Extra allowances for maritime sector

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

20% of the revenues generated from the auctioning of allowances referred to in Article 3gd shall be used through the fund established under that Article (‘Maritime Climate Fund’) to improve energy efficiency and support investments in innovative technologies to reduce CO2 emissions in the maritime sector, including short sea shipping and ports.

Article 3gd

Maritime Climate Fund

1. A fund aimed at compensating for maritime emissions, improving energy efficiency and facilitating investments in innovative technologies to reduce CO2 emissions of the maritime sector shall be established at Union level.

2. Ship operators may pay, on a voluntary basis, an annual membership contribution to the fund in accordance with their total emissions reported for the preceding calendar year under Regulation (EU) 2015/757. By way of derogation
from Article 12(3), the fund shall surrender allowances collectively on behalf of ship operators which are members of the fund. The contribution per tonne of emissions shall be set by the fund by 28 February each year, and shall not be less than the level of the market price for allowances in the preceding year.

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

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

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

Article 3ge

International cooperation

In the event that an international agreement on global measures to reduce greenhouse gas emissions from maritime transport is reached, the Commission shall review this Directive and shall, if appropriate, propose amendments in order to ensure alignment with that international agreement.'
Directive 2003/87/EC
Article 5 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

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

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

Amendment 38

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

Directive 2003/87/EC
Article 6 – paragraph 2 – points e a and e b (new)

Text proposed by the Commission

Amendment

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

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

(eb) an obligation to publish every year comprehensive information in respect of combating climate change and compliance with Union directives in the field of the environment, health and safety at work; that information shall be accessible to workers' representatives and to the representatives of civil society from local communities in the vicinity of the installation.'
Amendment 39
Proposal for a directive
Article 1 – point 2 d (new)
Directive 2003/87/EC
Article 7

Present text

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

'Article 7
The operator shall inform the competent authority of any planned changes to the nature or functioning of the installation, or any extension or significant reduction of its capacity, which may require updating the greenhouse gas emissions permit. Where appropriate, the competent authority shall update the permit. Where there is a change in the identity of the installation's operator, the competent authority shall update the permit to include the name and address of the new operator.'

Amendment 142
Proposal for a directive
Article 1 – point 3
Directive 2003/87/EC
Article 9 – paragraphs 2 and 3

Text proposed by the Commission
Starting in 2021, the linear factor shall be 2.2%.

Amendment
Starting in 2021, the linear factor shall be 2.2% and shall be kept under review with a view to increasing it to 2.4% by 2024 at the earliest.

Amendment 41
Proposal for a directive
Article 1 – point 4 – point a
Directive 2003/87/EC
Article 10 – paragraph 1 – subparagraph 1
(a) three new subparagraphs are added to paragraph 1:

Amendment 42

Proposal for a directive
Article 1 – point 4 – point a
Directive 2003/87/EC
Article 10 – paragraph 1 – subparagraph 2

Text proposed by the Commission
From 2019 onwards, Member States shall either auction or cancel allowances that are not allocated free of charge in accordance with Articles 10a and 10c and are not placed in the MSR.’

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

Amendment 43

Proposal for a directive
Article 1 – point 4 – point a
Directive 2003/87/EC
Article 10 – paragraph 1 – subparagraph 3

Text proposed by the Commission
2% of the total quantity of allowances

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

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

Amendment 44

Proposal for a directive
Article 1 – point 4 – point a
Directive 2003/87/EC
Article 10 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

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

Amendment 45

Proposal for a directive
Article 1 – point 4 – point a
Directive 2003/87/EC
Article 10 – paragraph 1 – subparagraph 3 b (new)

Text proposed by the Commission

A Just Transition Fund shall be created as of 1 January 2021 as a complement to the European Regional Development Fund and the European Social Fund and
shall be funded through the pooling of 2% of the auctioning revenues. The revenues of those auctions shall remain at Union level, and shall be used to support regions which combine a high share of workers in carbon-dependent sectors and a GDP per capita well below the Union average. Such measures shall respect the principle of subsidiarity.

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

- creating redeployments and/or mobility cells,
- education/training initiatives to re-skill or upskill workers,
- support in job-seeking,
- business creation, and
- monitoring and pre-emptive measures to avoid or minimise the negative impact of the restructuring process on physical and mental health.

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

Amendment 46

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

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

Amendment

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

Amendment 47

Proposal for a directive
Article 1 – point 4 – point a
Directive 2003/87/EC
Article 10 – paragraph 1 – subparagraph 4 a (new)

Text proposed by the Commission

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

Amendment 48

Proposal for a directive
Article 1 – point 4 – point b – point ii
Directive 2003/87/EC
Article 10 – paragraph 2 – point b

Text proposed by the Commission

(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.

Amendment 49

Proposal for a directive
Article 1 – point 4 – point b a (new)
Directive 2003/87/EC
Article 10 – paragraph 3 – introductory part

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

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

Amendment

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

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

Amendment 50

Proposal for a directive
Article 1 – point 4 – point b b (new)
Directive 2003/87/EC
Article 10 – paragraph 3 – point b

Present text

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

Amendment

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

'(b) to develop renewable energies to meet the commitment of the Union to renewable energies by 2030, as well as to develop other technologies contributing to the transition to a safe and sustainable low-carbon economy and to help meet the commitment of the Union to increase energy efficiency by 2030 at the levels agreed in appropriate legislative acts,'

Amendment 51

Proposal for a directive
Article 1 – point 4 – point b c (new)
Directive 2003/87/EC
Article 10 – paragraph 3 – point f

Present text

'(bc) in paragraph 3, point (f) is
'(f) to encourage a shift to low-emission and public forms of transport;'

replaced by the following:

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

Amendment 52

Proposal for a directive
Article 1 – point 4 – point b d (new)
Directive 2003/87/EC
Article 10 – paragraph 3 – point h

Present text

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

Amendment

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

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

Amendment 53

Proposal for a directive
Article 1 – point 4 – point c
Directive 2003/87/EC
Article 10 – paragraph 3 – point j

Text proposed by the Commission

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

Amendment

(j) to fund financial measures in favour of sectors or subsectors that are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, provided that not more than 20% of revenues are used for this purpose, and that these measures meet the conditions set out in Article 10a(6);
Amendment 54

Proposal for a directive
Article 1 – point 4 – point c
Directive 2003/87/EC
Article 10 – paragraph 3 – point l

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

Amendment
(l) to address the social impact of the decarbonisation of their economies and promote skill formation and reallocation of labour affected by the transition of jobs in close coordination with the social partners.

Amendment 55

Proposal for a directive
Article 1 – point 4 – point c a (new)
Directive 2003/87/EC
Article 10 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission
(ca) in paragraph 3, the following subparagraph is inserted:
'This information shall be provided through a standardised template prepared by the Commission, including information on the use of auctioning revenues for the different categories and the additionality of the use of the funds. The Commission shall make this information public on its website.'

Amendment

Amendment 56

Proposal for a directive
Article 1 – point 4 – point c b (new)
Directive 2003/87/EC
Article 10 – paragraph 3 – subparagraph 2

Present text
'Member States shall be deemed to have

Amendment
(cb) in paragraph 3, the second subparagraph is replaced by the following:
'Member States shall be deemed to have
fulfilled the provisions of this paragraph if
they have in place and implement fiscal or
financial support policies, including in
particular in developing countries, or
domestic regulatory policies, which
leverage financial support, established for
the purposes set out in the first
subparagraph and which have a value
equivalent to at least 50% of the revenues
generated from the auctioning of
allowances referred to in paragraph 2,
including all revenues from the
auctioning referred to in paragraph 2,
points (b) and (c).'

Amendment 57
Proposal for a directive
Article 1 – point 4 – point d
Directive 2003/87/EC
Article 10 – paragraph 4 – subparagraphs 1, 2 and 3

Text proposed by the Commission

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

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

Amendment

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

'4. The Commission is empowered to
adopt delegated acts in accordance with
Article 30b to supplement this Directive by
laying down detailed arrangements for
timing, administration and other aspects
of auctioning to ensure that it is
conducted in an open, transparent,
harmonised and non-discriminatory
manner. To this end, the process shall be
predictable, in particular as regards the
timing and sequencing of auctions and
the estimated volumes of allowances to be
made available. Where an assessment
concludes in relation to the individual
industrial sectors that no significant
impact on sectors or subsectors exposed to
a significant risk of carbon leakage is to
be expected, the Commission may, in
exceptional circumstances, adapt the
timetable for the period referred to in
Article 13(1) beginning on 1 January
2013 so as to ensure the orderly
functioning of the market. The Commission shall make no more than one such adaptation for a maximum number of 900 million allowances.

Auctions shall be designed to ensure that:

(a) operators, and in particular any SMEs covered by the EU ETS, have full, fair and equitable access;

(b) all participants have access to the same information at the same time and that participants do not undermine the operation of the auction;

(c) the organisation and participation in auctions is cost-efficient and undue administrative costs are avoided; and

(d) small emitters have access to allowances.'

Amendment 58

Proposal for a directive

Article 1 – point 4 – point d a (new)

Directive 2003/87/EC

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

Text proposed by the Commission

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

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

Amendment 59

Proposal for a directive

Article 1 – point 4 – point d b (new)
Present text

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

Amendment

(db) paragraph 5 is replaced by the following:

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

Amendment 60

Proposal for a directive
Article 1 – point 5 – point a
Directive 2003/87/EC
Article 10a – paragraph 1 – subparagraphs 1 and 2

Text proposed by the Commission

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

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

Amendment

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

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

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

Amendment 61

Proposal for a directive
Article 1 – point 5 – point a a (new)
Directive 2003/87/EC
Article 10a – paragraph 1 – subparagraph 3

Present text

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

Amendment

'The measures referred to in the first subparagraph shall, to the extent feasible, determine Community-wide ex-ante benchmarks so as to ensure that allocation takes place in a manner that provides incentives for reductions in greenhouse gas emissions and energy efficient techniques, by taking account of the most efficient techniques, substitutes, alternative production processes, high efficiency cogeneration, efficient energy recovery of waste gases,'
waste gases, use of biomass and capture and storage of CO2, where such facilities are available, and shall not provide incentives to increase emissions. No free allocation shall be made in respect of any electricity production, except for cases falling within Article 10c and electricity produced from waste gases.'

Amendment 62

Proposal for a directive
Article 1 – point 5 – point b
Directive 2003/87/EC
Article 10a – paragraph 2 – subparagraph 3 – introductory part

Text proposed by the Commission

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

Amendment

The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive for the purpose of determining the revised benchmark values for free allocation. Those acts shall be in accordance with the delegated acts adopted pursuant to paragraph 1 of this Article and shall comply with the following:

Amendment 63

Proposal for a directive
Article 1 – point 5 – point b
Directive 2003/87/EC
Article 10a – paragraph 2 – subparagraph 3 – point -i (new)

Text proposed by the Commission

(-i) For the period from 2021 to 2025, the benchmark values shall be determined on the basis of information submitted pursuant to Article 11 for the years 2016-2017;
Amendment 64

Proposal for a directive
Article 1 – point 5 – point b
Directive 2003/87/EC
Article 10a – paragraph 2 – subparagraph 3 – point -i a (new)

*Text proposed by the Commission*

(-ia) On the basis of a comparison of the benchmark values based on this information with the benchmark value contained in Commission Decision 2011/278/EU, the Commission shall determine the annual reduction rate for each benchmark and apply it to the benchmark values applicable in the period 2013-2020 in respect of each year between 2008 and 2023 to determine the benchmark values for the years 2021-2025;

Amendment 65

Proposal for a directive
Article 1 – point 5 – point b
Directive 2003/87/EC
Article 10a – paragraph 2 – subparagraph 3 – point i

*Text proposed by the Commission*

(i) On the basis of information submitted pursuant to Article 11, the Commission shall identify whether the values for each benchmark calculated using the principles in Article 10a differ from the annual reduction referred to above by more than 0.5% of the 2007-8 value higher or lower annually. If so, that benchmark value shall be adjusted either 0.5% or 1.5% in respect of each year between 2008 and 2023 for which free allocation is to be made;

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

Amendment 66

Proposal for a directive
Article 1 – point 5 – point b
Directive 2003/87/EC
Article 10a – paragraph 2 – subparagraph 3 – point ii

Text proposed by the Commission

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

Amendment

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

Amendment 67

Proposal for a directive
Article 1 – point 5 – point b
Directive 2003/87/EC
Article 10a – paragraph 2 – subparagraph 4

Text proposed by the Commission

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

Amendment

deleted

Amendment 68

Proposal for a directive
Article 1 – point 5 – point b a (new)
Directive 2003/87/EC
Article 10a – paragraph 2 – subparagraph 3 a (new)

Text proposed by the Commission

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

‘For the period between 2026 and 2030, the benchmark values shall be determined in the same manner on the basis of information submitted pursuant to Article 11 for the years 2021-2022 and with the annual reduction rate applying in respect of each year between 2008 and 2028.’

Amendment 69

Proposal for a directive
Article 1 – point 5 – point b b (new)
Directive 2003/87/EC
Article 10a – paragraph 2 – subparagraph 3 b (new)

Text proposed by the Commission

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

Amendment 165

Proposal for a directive
Article 1 – point 5 – point b c (new)
Directive 2003/87/EC
Article 10a – paragraph 3

Present text

Subject to paragraphs 4 and 8, and notwithstanding Article 10c, no free allocation shall be given to electricity generators, to installations for the capture of CO2, to pipelines for transport of CO2 or to CO2 storage sites.

Amendment

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

Subject to paragraphs 4 and 8, and notwithstanding Article 10c, no free allocation shall be given to electricity generators, to installations for the capture of CO2, to pipelines for transport of CO2 or to CO2 storage sites. Electricity generators producing electricity from waste gas are not electricity generators within the meaning of Article 3(u) of this Directive. In benchmark calculations, the full carbon content of waste gases used for electricity production shall be taken into account.

Amendment 70

Proposal for a directive
Article 1 – point 5 – point b d (new)
Directive 2003/87/EC
Article 10a – paragraph 4

Amendment

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

‘By way of derogation regarding the benchmark values for aromatics, hydrogen and syngas, these benchmark values shall be adjusted by the same percentage as the refineries benchmarks in order to preserve a level playing field for producers of these products.’
'4. Free allocation shall be given to district heating as well as to high efficiency cogeneration, as defined by Directive 2004/8/EC, for economically justifiable demand, in respect of the production of heating or cooling. In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 9.'

Amendment 71

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

Text proposed by the Commission

5. Where the sum of free allocations in a given year does not reach the maximum level, respecting the Member States’ auctioning share set out in Article 10(1), the remaining allowances up to that level shall be used to prevent or limit reduction of free allocations to respect the Member State auctioning share in later years. Where, nonetheless, the maximum level is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner.

Amendment

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

Amendment 72
Proposal for a directive
Article 1 – point 5 – point d
Directive 2003/87/EC
Article 10a – paragraph 6 – subparagraph 1

Text proposed by the Commission

Member States should adopt financial measures in favour of sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, taking into account any effects on the internal market. Such financial measures to compensate part of these costs shall be in accordance with state aid rules.

Amendment

6. A centralised arrangement at Union level shall be adopted to compensate sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices.

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

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

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

Amendment 73
Proposal for a directive
Article 1 – point 5 – point d a (new)
Directive 2003/87/EC
Article 10a – paragraph 6 – subparagraph 1a (new)

Text proposed by the Commission

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

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

Amendment 74

Proposal for a directive
Article 1 – point 5 – point e – point i
Directive 2003/87/EC
Article 10a – paragraph 7 – subparagraph 1

Text proposed by the Commission

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

Amendment

7. 400 million allowances shall be set aside for new entrants and significant production increases.
Amendment 75

Proposal for a directive
Article 1 – point 5 – point e – point i
Directive 2003/87/EC
Article 10a – paragraph 7 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 76

Proposal for a directive
Article 1 – point 5 – point f – introductory part
Directive 2003/87/EC
Article 10a – paragraph 8

Text proposed by the Commission

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

Amendment

(f) paragraph 8 is replaced by the following:

Amendment 77

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

Text proposed by the Commission

400 million allowances shall be available to support innovation in low-carbon technologies and processes in industrial sectors listed in Annex I, and to help stimulate the construction and operation of commercial demonstration projects that aim at the environmentally safe capture and geological storage (CCS) of CO2 as well as demonstration projects of

Amendment

8. 600 million allowances shall be available to leverage investments in innovation in low-carbon technologies and processes in industrial sectors listed in Annex I, including bio-based materials and products substituting carbon intensive materials, and to help stimulate the construction and operation of commercial demonstration projects that
innovative renewable energy technologies, in the territory of the Union.

Amendment 78

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

Text proposed by the Commission

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

Amendment

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

Amendment 79

Proposal for a directive
Article 1 – point 5 – point f
Directive 2003/87/EC
Article 10a – paragraph 8 – subparagraph 3

Text proposed by the Commission

In addition, 50 million unallocated allowances from the market stability

Amendment

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

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

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

Amendment 80

Proposal for a directive
Article 1 – point 5 – point f
Directive 2003/87/EC
Article 10a – paragraph 8 – subparagraph 4

Text proposed by the Commission

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

Amendment

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

(i) Projects shall focus on the design and development of breakthrough solutions and implementation of demonstration programmes;

(ii) The activities shall run close-to-market in production plants to demonstrate the viability of breakthrough technologies in overcoming technological as well as non-technical barriers;

(iii) Projects shall address technological solutions that have the potential to be of
widespread application, and may combine different technologies;
(iv) Solutions and technologies shall ideally have the potential to be transferred within the sector and possibly to other sectors;
(v) Projects where the anticipated emissions reductions are significantly below the relevant benchmark value shall be prioritised. Eligible projects shall either contribute to emissions reductions below the benchmark values referred to in paragraph 2 or shall have future prospects to significantly lower the cost of transitioning towards low-emissions energy production; and
(vi) CCU projects shall deliver a net reduction in emissions and a permanent storage of CO2 across their lifetime.

Amendment 82
Proposal for a directive
Article 1 – point 5 – point i a (new)
Directive 2003/87/EC
Article 10a – paragraph 20

Present text

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

Amendment

'(a) paragraph 20 is replaced by the following:

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

Those measures shall provide flexibility for industry sectors where capacity is regularly transferred between operating installations in the same company.'
Amendment 83

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10b – title

Present text

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

Amendment

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

Amendment 85

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10b – paragraph 1 a (new)

Text proposed by the Commission


States to reduce their greenhouse gas emissions to meet the Community’s greenhouse gas emission reduction commitments up to 2020 (OJ L 140, 5.6.2009, p. 136).

**Amendment 144**

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10b – paragraphs 1 b and 1 c (new)

**Text proposed by the Commission**

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

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

**Amendment 86**

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10b – paragraph 2
2. Sectors and sub-sectors where the product from multiplying their intensity of trade with third countries by their emission intensity is above 0.18 may be included in the group referred to in paragraph 1, on the basis of a qualitative assessment using the following criteria:

(a) the extent to which it is possible for individual installations in the sector or sub-sectors concerned to reduce emission levels or electricity consumption;

(b) current and projected market characteristics;

(c) profit margins as a potential indicator of long-run investment or relocation decisions.

2. Sectors and sub-sectors where the product from multiplying their intensity of trade with third countries by their emission intensity is above 0.12 may be included in the group referred to in paragraph 1, on the basis of a qualitative assessment using the following criteria:

(a) the extent to which it is possible for individual installations in the sector or sub-sectors concerned to reduce emission levels or electricity consumption taking into account associated increases in costs of production;

(b) current and projected market characteristics;

(c) profit margins as a potential indicator of long-run investment or relocation decisions;

(ca) commodities which are traded on worldwide markets for a common reference price.

Amendment 87

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10b – paragraph 3

3. **Other sectors and sub-sectors are** considered to be able to pass on more of the cost of allowances in product prices, and shall be allocated allowances free of charge for the period up to 2030 at 30% of the quantity determined in accordance with the measures adopted pursuant to Article 10a.

3. **The district heating sector is** considered to be able to pass on more of the cost of allowances in product prices, and shall be allocated allowances free of charge for the period up to 2030 at 30% of the quantity determined in accordance with the measures adopted pursuant to Article 10a. **Other sectors and sub-sectors shall not be allocated any allowances free of charge.**
Amendment 88

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

Text proposed by the Commission

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

Amendment

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

Amendment 89

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

Text proposed by the Commission

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

Amendment

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

Amendment 90

Proposal for a directive
Article 1 – point 6
Article 10c – paragraph 1 a (new)

Text proposed by the Commission

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

Amendment 91

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10c – paragraph 1 b (new)

Text proposed by the Commission

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

Amendment 92

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10c – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

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

energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure, clean technologies (such as renewable technologies) or modernisation of the energy production, district heating networks, energy efficiency, energy storage, transmission and distribution sectors are eligible to bid;

Amendment 93

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10c – paragraph 2 – subparagraph 1 – point c

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

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

Amendment 94

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10c – paragraph 2 – subparagraph 1 – point c – point i

Text proposed by the Commission
(i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of emission reduction and realise a pre-determined significant level of CO2 reductions;

Amendment
(i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of emission reduction and realise a pre-determined significant level of CO2 reductions proportionate to the size of the projects. Where projects relate to electricity production, total greenhouse gas emissions per kilowatt hour of electricity produced in the installation shall not exceed 450g of CO2 equivalent after completion of the project. By 1 January 2021, the Commission shall adopt a delegated act in accordance with
Article 30b in order to amend this Directive by defining for projects relating to heat production maximum total greenhouse gas emissions per kilowatt hour of heat produced in the installation that shall not be exceeded.

Amendment 95

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10c – paragraph 2 – subparagraph 1– point c – point ii

Text proposed by the Commission

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

Amendment

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

Amendment 96

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10c – paragraph 2 – subparagraph 1– point c – point iii a (new)

Text proposed by the Commission

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

Amendment

By 30 June 2019, any Member State

Amendment 97

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10c – paragraph 2 – subparagraph 2

Text proposed by the Commission

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

**Amendment 98**

**Proposal for a directive**  
**Article 1 – point 6**  
Directive 2003/87/EC  
Article 10c – paragraph 2 – subparagraph 3

*Text proposed by the Commission*

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

*Amendment*

Where investments with a value of less than EUR 10 million are supported with free allocation, the Member State shall select projects based on objective and transparent criteria consistent with reaching the Union's long-term climate and energy objectives. Those criteria shall be subject to public consultation, ensuring full transparency and accessibility of relevant documents, and fully reflect comments raised by stakeholders. The results of this selection process shall be published for public consultation. On this basis, the Member State concerned shall establish and submit a list of investments to the Commission by 30 June 2019.

**Amendment 99**

**Proposal for a directive**  
**Article 1 – point 6**  
Directive 2003/87/EC  
Article 10c – paragraph 3

*Text proposed by the Commission*

3. The value of the intended investments shall at least equal the market value of the free allocation, while taking into account the need to limit directly linked price increases. The market value shall be the average of the price of

*Amendment*

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

**Amendment 100**

*Proposal for a directive*

**Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 6

*Text proposed by the Commission*

6. Member States shall require benefiting *electricity* generators and network operators to report by 28 February of each year on the implementation of their selected investments. Member States shall report on this to the Commission, and the Commission shall make such reports public.

*Amendment*

6. Member States shall require benefiting *energy* generators and network operators to report *annually by 31 March* of each year on the implementation of their selected investments, including the balance of free allocation and investment expenditure incurred, the types of investments supported and the way in which they achieved the goals set out in point (b) of the first subparagraph of paragraph 2. Member States shall report on this to the Commission, and the Commission shall make such reports *available to the public*. Member States and the Commission shall monitor and analyse potential arbitrage with regard to the threshold of EUR 10 million for small projects and shall prevent unjustified dividing up of an investment over smaller projects by excluding more than one investment in the same beneficiary installation.

**Amendment 101**

*Proposal for a directive*

**Article 1 – point 6**

Directive 2003/87/EC

Article 10c – paragraph 6 a (new)

*Text proposed by the Commission*

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

Amendment 102

Proposal for a directive
Article 1 – point 6
Directive 2003/87/EC
Article 10c – paragraph 6 b (new)

Text proposed by the Commission

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

Amendment 49

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

1. A fund to support and leverage investments in modernising energy systems, including district heating, and improving energy efficiency in Member States with a GDP per capita below 60% of the Union average in 2013, or in 2014, or in 2015, shall be established for the period 2021-2030 and
The investments supported shall be consistent with the aims of this Directive and the European Fund for Strategic Investments.

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

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

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

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

financed as set out in Article 10.
shall not supply a market-driven increase in energy demand;

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

Amendment 105

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 1 – subparagraph 2 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Commission shall keep under review the requirements set out in this paragraph taking into account the Climate Strategy of the EIB. If, on the basis of technological progress, one or more of the requirements set out in this paragraph become irrelevant, the Commission shall adopt a delegated act in accordance with Article 30b by 2024 in order to amend this Directive by outlining new or updated requirements.</td>
<td></td>
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</tbody>
</table>

Amendment 106

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. The fund shall also finance small-scale investment projects in the modernisation of energy systems and energy efficiency. To this end, the investment board shall develop guidelines and investment selection criteria specific to such projects.</td>
<td></td>
</tr>
<tr>
<td>2. The fund shall also finance small-scale investment projects in the modernisation of energy systems and energy efficiency. To this end, its investment board shall develop investment guidelines and selection criteria specific to such projects in line with the objectives of this Directive and with the criteria set out in paragraph 1. Those guidelines and selection criteria shall be made available to the public.</td>
<td></td>
</tr>
</tbody>
</table>
For the purpose of this paragraph a small-scale investment project means a project funded through loans provided by a national promotional bank or through grants contributing to the implementation of a national programme serving specific objectives that are in line with those of the Modernisation Fund, provided that not more than 10% of the Member States' share set out in Annex IIb is used.

Amendment 107

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 3 a (new)

Text proposed by the Commission

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

Amendment 108

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 4 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

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

The management committee shall be responsible for the day-to-day management of the fund. A management committee shall be established. The management committee shall be responsible for the day-to-day management of the fund.

Amendment 109

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 4 – subparagraph 2

Text proposed by the Commission

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

Amendment

The chairman of the investment board shall be elected from among its members for a one-year term. The investment board shall strive to take decisions by consensus. The advisory board shall adopt its opinion by simple majority.
Amendment 110

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 4 – subparagraph 3

Text proposed by the Commission

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

Amendment

The investment board, advisory board and management committee shall operate in an open and transparent manner. The minutes of both board meetings shall be published. The composition of the investment board and advisory board shall be published and CVs and declarations of interests of the members shall be made available to the public and regularly updated. The investment board and the advisory board shall, on an ongoing basis, check for the absence of any conflict of interest. The advisory board shall submit every six months to the European Parliament, the Council and the Commission a list of advice provided to projects.

Amendment 111

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 4 – subparagraph 4

Text proposed by the Commission

If the EIB recommends not financing an investment and provides reasons for this recommendation, a decision shall only be adopted if a majority of two-thirds of all members vote in favour. The Member State in which the investment will take place and the EIB shall not be entitled to cast a vote in this case. For small projects funded through loans provided by a national promotional bank or through grants contributing to the implementation of a national programme serving specific objectives in line with the objectives of the

Amendment

If the EIB recommends to the advisory board not to finance an investment and provides reasons why it is not in line with the investment policy adopted by the investment board and the selection criteria set out in paragraph 1, a positive opinion shall only be adopted if a majority of two-thirds of all members vote in favour. The Member State in which the investment will take place and the EIB shall not be entitled to cast a vote in this case.
Modernisation Fund, provided that not more than 10% of the Member States' share set out in Annex IIB is used under the programme, the two preceding sentences shall not apply.

Amendment 112

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 5 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 113

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 6

Text proposed by the Commission

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

Amendment

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

Amendment 114

Proposal for a directive
Article 1 – point 7
Directive 2003/87/EC
Article 10d – paragraph 7
7. The Commission shall be empowered to adopt a delegated act in accordance with Article 23 to implement this Article.

Amendment 115

Proposal for a directive
Article 1 – paragraph 1 – point 8 a (new)
Directive 2003/87/EC
Article 11 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

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

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

Amendment 116

Proposal for a directive
Article 1 – point 8 b (new)
Directive 2003/87/EC
Article 11 – paragraph 3 a (new)

Text proposed by the Commission

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

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

Amendment 117
Proposal for a directive
Article 1 – point 10 a (new)
Directive 2003/87/EC
Article 12 – paragraph 3a

Present text

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

3a. An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide¹, nor in respect of emissions verified as captured and/or re-used in an application ensuring a permanent bound of the CO₂, for the purpose of carbon capture and re-use.'

Amendment 118
Proposal for a directive
Article 1 – point 12
Directive 2003/87/EC
Article 14 – paragraph 1

Text proposed by the Commission

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

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

Amendment

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

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

'By 31 December 2018, the Commission shall adjust existing rules on monitoring and reporting of emissions as defined in Commission Regulation (EU) No 601/2012* in order to remove regulatory barriers to investment in more recent low carbon technologies such as carbon capture and usage (CCU). Those new rules shall be effective for all CCU technologies as of 1 January 2019. That regulation shall also determine simplified monitoring, reporting and verification procedures for small emitters.


Amendment 119

Proposal for a directive
Article 1 – point 13
Directive 2003/87/EC
Article 15 – paragraphs 4 and 5

Text proposed by the Commission

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

Amendment

(13) In Article 15, the fourth and fifth paragraphs are replaced by the following:
The Commission shall be empowered to adopt a delegated act in accordance with Article 23.

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

Amendment 120

Proposal for a directive
Article 1 – point 13 a (new)
Directive 2003/87/EC
Article 16 – paragraph 7

Present text

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

Amendment

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

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

Amendment 121

Proposal for a directive
Article 1 – point 14
Directive 2003/87/EC
Article 16 – paragraph 12

Text proposed by the Commission

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

Amendment

12. Where appropriate, detailed rules shall be established in respect of the procedures referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 30c(2).
Amendment 122
Proposal for a directive
Article 1 – point 15
Directive 2003/87/EC
Article 19 – paragraph 3

Text proposed by the Commission

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

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

Amendment

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

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

Amendment 123
Proposal for a directive
Article 1 – point 15 a (new)
Directive 2003/87/EC
Article 21 – paragraph 1

Present text

'1. Each year the Member States shall submit to the Commission a report on the application of this Directive. That report

Amendment

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

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

**Amendment 124**

**Proposal for a directive**

**Article 1 – point 15 b (new)**

Directive 2003/87/EC

Article 21 – paragraph 2 a (new)

*Text proposed by the Commission*

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

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

**Amendment 125**

**Proposal for a directive**

**Article 1 – point 15 c (new)**

Directive 2003/87/EC

Article 21 – paragraph 3 a (new)
(15c) In Article 21 the following paragraph is added:

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

Amendment 126
Proposal for a directive
Article 1 – point 16
Directive 2003/87/EC
Article 22 – paragraph 2

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

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

Amendment 127
Proposal for a directive
Article 1 – point 17
Directive 2003/87/EC
Article 22a – title

The following Article 22a is inserted:

'Article 22a
Committee procedure'

Amendment
The following Article is inserted:

'Article 30c
Committee procedure'
Amendment 128

Proposal for a directive
Article 1 – point 18
Directive 2003/87/EC
Article 23 – title

Text proposed by the Commission

‘Article 23
Exercise of the delegation’

Amendment

‘Article 30b
Exercise of the delegation’

Amendment 129

Proposal for a directive
Article 1 – point 19 – point a
Directive 2003/87/EC
Article 24 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 130

Proposal for a directive
Article 1 – point 19 – point a
Directive 2003/87/EC
Article 24 – paragraph 1 – subparagraph 2
In accordance with delegated acts which the Commission shall be empowered to adopt in accordance with Article 23, if the inclusion refers to activities and greenhouse gases which are not listed in Annex I.

Amendment 131

Proposal for a directive
Article 1 – point 19 – point b
Directive 2003/87/EC
Article 24 – paragraph 3

Text proposed by the Commission

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

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

Amendment

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

Amendment 132

Proposal for a directive
Article 1 – point 20 – point a
Directive 2003/87/EC
Article 24a – paragraph 1 – subparagraphs 1 and 2

Text proposed by the Commission

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

in paragraph 1, the first and second subparagraphs are replaced by the
'Such measures shall be consistent with acts adopted pursuant to Article 11b(7). The Commission shall be empowered to adopt a delegated act in accordance with Article 23.'

Amendment 133
Proposal for a directive
Article 1 – point 22
Directive 2003/87/EC
Article 25a – paragraph 1

Text proposed by the Commission

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

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

Amendment

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

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

Amendment 134
Proposal for a directive
'1. Following consultation with the operator, Member States may exclude from the Community scheme installations which have reported to the competent authority emissions of less than 25 000 tonnes of carbon dioxide equivalent and, where they carry out combustion activities, have a rated thermal input below 35 MW excluding emissions from biomass, in each of the three years preceding the notification under point (a), and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

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

(b) it confirms that monitoring arrangements are in place to assess whether any installation emits 25 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year. Member States may allow simplified monitoring, reporting and verification measures for installations with average annual verified emissions between 2008 and 2010 which are below 5 000 tonnes a year, in accordance with Article 14;

(c) it confirms that if any installation emits 25 000 tonnes or more of carbon dioxide equivalent in any one calendar year, Member States, following an operator’s request, shall allow simplified monitoring, reporting and verification measures for installations with average annual verified emissions between 2008 and 2010 which are below 5 000 tonnes a year, in accordance with Article 14;

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

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

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

(b) it confirms that monitoring arrangements are in place to assess whether any installation emits 50 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year. Member States, following an operator’s request, shall allow simplified monitoring, reporting and verification measures for installations with average annual verified emissions between 2008 and 2010 which are below 5 000 tonnes a year, in accordance with Article 14;

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

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

Hospitals may also be excluded if they undertake equivalent measures.

Amendment 135

Proposal for a directive
Article 1 – point 22 b (new)
Directive 2003/87/EC
Article 27 a (new)

Text proposed by the Commission

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

Hospitals may also be excluded if they undertake equivalent measures.

Amendment

(22b) The following Article is inserted:

'Article 27a

Exclusion of small installations not subject to equivalent measures

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

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

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

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

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

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

Amendment 136

Proposal for a directive
Article 1 – point 22 c (new)
Directive 2003/87/EC
Article 29

Present text

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

Amendment

(22c) Article 29 is amended as follows:

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

Amendment 137

Proposal for a directive
Article 1 – point 22 d (new)
Directive 2003/87/EC
Article 30 a (new)

Text proposed by the Commission

Amendment

(22d) The following Article is inserted:

'Article 30a

Adjustments upon global stocktake under the UNFCCC and the Paris Agreement

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

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

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

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

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

Amendment 138

Proposal for a directive
Article 1 – point 22 e (new)
Directive 2003/87/EC
Annex I – paragraph 3

Present text

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

Amendment

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

3. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the EU ETS, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, are added together. Those units could include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW, back-up and emergency units used solely to generate electricity for on-site consumption in the event of a power cut and units which use exclusively biomass shall not be taken into account for the purposes of this calculation. “Units using exclusively biomass” includes units which use fossil fuels only during start-up
Proposal for a directive
Article 1a (new)
Decision (EU) 2015/1814
Article 1 – paragraph 5 – subparagraphs 1a and 1b (new)

Text proposed by the Commission

Amendment

Article 1a

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

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

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

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