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

**2008/0013(COD)**

05.10.2008

## **COMPROMISE AMENDMENTS 1 - 25**

**Draft report**  
**Avril Doyle**  
(PE407.778v01-00)

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend greenhouse gas emission allowance trading system of the Community

Proposal for a directive – amending act  
(COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))



## Amendment 1

PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL, IND/DEM

Compromise amendment replacing amendments 69, 70, 71, 72, 73, 74, 75, 76, ITRE 9

### Proposal for a directive – amending act

#### Recital 10

*Text proposed by the Commission*

(10) Where equivalent measures to reduce greenhouse gas emissions, in particular taxation, are in place for small installations whose emissions do not exceed a threshold of **10 000** tonnes of CO<sub>2</sub> per year, there should be a procedure for enabling Member States to exclude such small installations from the emissions trading system for so long as those measures are applied. This threshold *relatively* offers the maximum gain in terms of reduction of administrative costs for each tonne excluded from the system, *for reasons of administrative simplicity*. As a consequence of the move from five-year allocation periods, and in order to increase certainty and predictability, provisions should be set on the frequency of revision of greenhouse gas emission permits.

*Amendment*

(10) Where equivalent measures to reduce greenhouse gas emissions, in particular taxation, are in place for small installations whose emissions do not exceed a threshold of **25 000** tonnes of CO<sub>2</sub> per year, there should be a procedure for enabling Member States to exclude *at the request of the operator* such small installations from the emissions trading system for so long as those measures are applied. *Hospitals may also be excluded if they undertake equivalent measures*. This threshold *is the economically most advantageous option and* offers the maximum gain in terms of reduction of administrative costs for each tonne excluded from the system. As a consequence of the move from five-year allocation periods, and in order to increase certainty and predictability, provisions should be set on the frequency of revision of greenhouse gas emission permits.

Or. en

## Amendment 2

PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL

Compromise amendment replacing amendments 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 108, INTA 3, ECON 4, REGI 3

### Proposal for a directive – amending act

#### Recital 15

*Text proposed by the Commission*

(15) Given the considerable efforts of combating climate change and of adapting

*Amendment*

(15) Given the considerable efforts of combating climate change and of adapting

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

<sup>20</sup> COM(2006) 583, 6.10.2006.

to its inevitable effects, it is appropriate that **50%** of the proceeds from the auctioning of allowances should be used **in a dedicated international fund** to reduce greenhouse gas emissions, to adapt to the impacts of climate change, **and** to fund research and development for reducing emissions and adaptation **in developing countries that have ratified the international agreement. The remaining revenues from auctioning should be used to address climate change issues in the European Union, inter alia to reduce greenhouse gas emission, to adapt to the impacts of climate change, to fund research and development for reducing emissions and adaptation**, to develop renewable energies to meet the EU's commitment to using 20% renewable energies by 2020, to meet the commitment of the Community to increase energy efficiency by 20% by 2020, for the capture and geological storage of greenhouse gases, to contribute to the Global Energy Efficiency and Renewable Energy Fund<sup>20</sup>, for measures to avoid deforestation and for addressing social aspects such as **energy poverty**. In addition, proceeds from auctioning of allowances should be used to cover administrative expenses of the management of the Community scheme. Provisions should be included on monitoring the use of funds from auctioning for these purposes. Such notification does not release Member States from the obligation laid down in Article 88(3) of the Treaty, to notify certain national measures. The Directive does not prejudice the outcome of any future State aid procedures that may be undertaken in accordance with Articles 87 and 88 of the Treaty.

<sup>20</sup> COM(2006) 583, 6.10.2006.

Or. en

### Amendment 3

PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL

Compromise amendment replacing amendments 3, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 129, REGI 4, ECON 5

### Proposal for a directive – amending act

#### Recital 16

*Text proposed by the Commission*

(16) Consequently, full auctioning should be the rule from 2013 onwards for the power sector, taking into account their ability to pass on the increased cost of CO<sub>2</sub>, and no free allocation should be given for carbon capture and storage as the incentive for this arises from allowances not being required to be surrendered in respect of emissions which are stored. Electricity generators may receive free allowances for heat produced through high efficiency cogeneration as defined by Directive 2004/8/EC ***in the event that such heat produced by installations in other sectors were to be given free allocations, in order to avoid distortions of competition.***

*Amendment*

(16) Consequently, full auctioning should be the rule from 2013 onwards for the power sector, taking into account their ability to pass on the increased cost of CO<sub>2</sub>, and no free allocation should be given for carbon capture and storage as the incentive for this arises from allowances not being required to be surrendered in respect of emissions which are stored. Electricity generators ***should*** receive free allowances for ***district heating, and*** for heat produced through high efficiency cogeneration as defined by Directive 2004/8/EC ***in respect of the production of heating and cooling, up to the level of the best available technologies, and electricity produced either in connection with industrial heat through high efficiency cogeneration as defined in directive 2004/8/EC or from residues from an industrial process using best available technologies, provided that it is produced for the own consumption of the operator; all of which shall receive allocation under the same principles as applied to that industrial activity as mentioned in Annex 1.***

Or. en

#### Amendment 4

PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL

Compromise amendment replacing amendments 5, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, REGI 6, INTA 5, ECON 7

#### Proposal for a directive – amending act

#### Recital 18

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

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

##### *Amendment*

(18) Transitional free allocation to installations should be provided for through harmonised Community-wide rules, ***ex ante sector specific benchmarks*** in order to minimise distortions of competition *within* the Community. These rules should ***be based on*** the most greenhouse gas and energy efficient techniques ***and technologies***, substitutes, alternative production processes, use of biomass, renewables and greenhouse gas capture and storage ***and take into account potential, including the technical potential, to reduce emissions***. Any such rules should not give incentives to increase emissions ***overall or per unit of production***. ***They should*** ensure that an increasing proportion of these allowances is auctioned. ***For each sector, the benchmark should be calculated on the final product to maximise greenhouse gas emissions and energy efficiency savings throughout the production process of the sector concerned***. Allocations must be fixed prior to the trading period so as to enable the market to function properly. They shall also avoid undue distortions of competition on the markets for electricity and heat supplied to industrial installations. These rules should apply to new entrants carrying out the same activities as existing installations receiving transitional free allocations. ***A new entrant means an installation which has obtained a greenhouse gas emission permit subsequent to the submission to the Commission of the list referred to in Article 11(1), or an update of its greenhouse gas emission permit because***

*of an extension of at least 20% in the installation's capacity or a significant change in its nature and functioning. In defining the principles for setting ex ante benchmarks in individual sectors, the Commission should consult the sectors concerned.* To avoid any distortion of competition within the internal market, no free allocation should be made in respect of the production of electricity by new entrants. Allowances which remain in the set-aside for new entrants in 2020 should be auctioned.

Or. en

### **Amendment 5**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing amendments 7, 190, 191, 192, 193, 194, 195, 196

### **Proposal for a directive – amending act**

#### **Recital 22**

*Text proposed by the Commission*

(22) In order to provide predictability, operators should be given certainty about their potential after 2012 to use CERs and ERUs *up to the remainder of the level which they were allowed to use in the period 2008 to 2012, from project types which were accepted by all Member States in the Community scheme during the period 2008 to 2012.* As carry-over by Member States of CERs and ERUs held by operators between commitments periods under international agreements ('banking' of CERs and ERUs) cannot take place before 2015, and only if Member States choose to allow the banking of those CERs and ERUs within the context of limited rights to bank such credits, this certainty should be given by requiring Member States to allow operators to exchange such CERs and ERUs issued in respect of emission reductions before 2012 for allowances valid from 2013 onwards.

*Amendment*

(22) *The Community scheme and other countries' emissions trading systems should facilitate demand for credits from real, verifiable, additional and permanent emission reductions from projects in countries contributing constructively to tackling climate change. Once countries have ratified the international agreement on climate change, such credits from those countries should be acceptable for all emission trading systems.* In order to provide predictability, operators should be given certainty about their potential after 2012 to use *high quality* CERs and *high quality* ERUs *that incentivise the linking of trading systems. Operators should be allowed to use such credits up to an average of 4% of their emissions, during the period from 2013 to 2020, provided they use less than 6,5% of ERUs and CERs compared to their 2005 emissions during each year of the 2008 - 2020*

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

*period and they do not carry over entitlements under Article 11a(2) of Directive 2003/87/EC. This system should ensure that over the period 2008 - 2020 up to 40% of the effort can be achieved through the use of CERs and ERUs.* As carry-over by Member States of CERs and ERUs held by operators between commitments periods under international agreements ('banking' of CERs and ERUs) cannot take place before 2015, and only if Member States choose to allow the banking of those CERs and ERUs within the context of limited rights to bank such credits, this certainty should be given by requiring Member States to allow operators to exchange such CERs and ERUs issued in respect of emission reductions before 2012 for allowances valid from 2013 onwards. However, as Member States should not be obliged to accept CERs and ERUs which it is not certain they will be able to use towards their existing international commitments, this requirement should not extend beyond 31 December 2014. Operators should be given the same certainty concerning such CERs issued from projects that have been established before 2013 in respect of emission reductions from 2013 onwards.

Or. en

#### **Amendment 6**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL, IND-DEM**

Compromise amendment replacing amendments 8, 200, 201, 202

#### **Proposal for a directive – amending act**

##### **Recital 25**

*Text proposed by the Commission*

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

*Amendment*

(25) Once a future international agreement on climate change has been **ratified by the Community, additional credits up to half of the additional reduction taking place in the Community scheme may be used, high**

international agreement.

*quality* CDM credits from third countries should only be accepted in the Community scheme once those countries have ratified the international agreement.

Or. en

#### **Amendment 7**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL, IND/DEM**

Compromise amendment replacing amendments 214, 215, 216, REGI 10

#### **Proposal for a directive – amending act**

##### **Recital 34**

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

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

###### *Amendment*

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

Or. en

## **Amendment 8**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing amendments 10, 225 (cp), 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, ECON 12, ITRE 21, INTA 13

### **Proposal for a directive – amending act**

#### **Article 1 – point 2 – point (b)**

Directive 2003/87/EC

Article 3 – point (h)

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## **Amendment 9**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing amendment ITRE 24

### **Proposal for a directive – amending act**

#### **Article 1 – point 2 – point (c)**

Directive 2003/87/EC

Article 3 – point [(v)] (new)

#### *Text proposed by the Commission*

#### *Amendment*

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

*more advanced developing countries,  
according to their responsibilities and  
respective capacities;*

Or. en

#### **Amendment 10**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL, IND/DEM**

Compromise amendment replacing (corresponding parts of) amendments 293, REGI 12, 294, 297, 298, 299, 300, 301, 302, 303, ITRE 28

#### **Proposal for a directive – amending act**

##### **Article 1 – point 7**

Directive 2003/87/EC

Article 10 – paragraph 2 – point a

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

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

##### *Amendment*

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

Or. en

#### **Amendment 11**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing (corresponding parts of) amendments 14, 293, REGI 12, 294, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 342, ITRE 30, INTA 15, INTA 16, ECON 17, ECON 18, ECON 19, ECON 20, ECON 21, ECON 22

#### **Proposal for a directive – amending act**

##### **Article 1 – point 7**

Directive 2003/87/EC

Article 10 – paragraph 3

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

3. At least **20%** of the revenues generated from the auctioning of allowances referred to in paragraph 2, **including all revenues from the auctioning referred to in point**

##### *Amendment*

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

*(b) thereof, should be used for the following:*

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

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

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

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

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

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

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

following:

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

*- the rights and needs of indigenous people;*

*- the preservation of biodiversity; and*

*- the sustainable use of forest resources;*

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

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

**Amendment 12**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing amendments 15, 346, 347, 348, 349,

**Proposal for a directive – amending act**

**Article 1 – point 7**

Directive 2003/87/EC

Article 10 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

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

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

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

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

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

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

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

*sustainable biomass in the Community;*

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

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

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

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

Or. en

### **Amendment 13**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing (corresponding parts of) amendments 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, ITRE 33, REGI 13, INTA 20, ECON 27

### **Proposal for a directive – amending act**

#### **Article 1 – point 8**

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 3

#### *Text proposed by the Commission*

The measures referred to in the first subparagraph shall, to the extent feasible, ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions,

#### *Amendment*

The measures referred to in the first subparagraph shall, to the extent feasible, ***establish community-wide harmonised ex ante sector specific benchmarks*** to ensure that allocation takes place in a manner that gives incentives for greenhouse gas and

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

energy efficient techniques and for reductions in emissions. *They shall be based on* the most efficient techniques *and technologies, and take into account the potential, including the technical potential, to reduce emissions*, substitutes, alternative production processes *and the* use of biomass, *cogeneration* and greenhouse gas capture, *use* and storage.

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

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

No free allocation shall be made in respect of any electricity production, *except for electricity produced either in connection with industrial heat through high efficiency cogeneration as defined in directive 2004/8/EC or from residues from an industrial process using best available technologies, provided that it is produced for the own consumption of the operators of the installations; all of which shall receive allocation under the same principles as applied to that industrial activity as mentioned in Annex 1.*

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

*concerned.*

Or. en

#### **Amendment 14**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing amendments 21, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, INTA 21, ITRE 36, REGI 16  
0

#### **Proposal for a directive – amending act**

##### **Article 1 – point 8**

Directive 2003/87/EC

Article 10a – paragraph 3

*Text proposed by the Commission*

**3. Free allocation may be given to electricity generators in respect of the production of heat through** high efficiency cogeneration as defined by Directive 2004/8/EC for economically justifiable demand **to ensure equal treatment with regard to other producers of heat.** In each year subsequent to 2013, the total allocation to such installations in respect of the production of that heat shall be adjusted by the linear factor referred to in Article 9.

*Amendment*

**3. Free allocation shall be given to district heating and** 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.

Or. en

#### **Amendment 15**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL, IND/DEM**

Compromise amendment replacing amendment 499

#### **Proposal for a directive – amending act**

##### **Article 1 – point 7**

Directive 2003/87/EC

Article 10a – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

**6a. The Commission shall by 31 December 2010 adopt Community wide**

*and fully harmonised rules on the definition of new entrant, including on the definition of 'capacity extension of at least 20%' and of a 'significant change in its nature and functioning'.*

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

Or. en

## **Amendment 16**

**PPE-DE, ALDE, IND/DEM**

Compromise amendment replacing amendments 22, 500, 501, 502, 503, 504

### **Proposal for a directive – amending act**

#### **Article 1 – point 7**

Directive 2003/87/EC

Article 10a – paragraph 6 b (new)

*Text proposed by the Commission*

*Amendment*

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

*The allowances will be awarded to projects that provide for the development, at best value costs and in geographically balanced locations across the EU, of a wide range of CCS technologies making use of diverse geological storage sites. Their award shall be dependent upon the verified avoidance of CO<sub>2</sub> emissions through the use of geological storage.*

*The Commission shall propose structures and procedures for identifying the projects and awarding allowances to promote construction of projects that have a minimum output of 200MW and that include all possible combinations of the three CCS technologies together with the various energy sources and transport and storage options. It shall strive to ensure that convincing progress towards letting contracts for the construction of at least 12 large-scale commercial demonstration projects in the EU can be displayed before the meeting of the Conference of the Parties to the UNFCCC to be held in Copenhagen in November 2009.*

*In making arrangements for the confirmation of CCS demonstration projects the Commission shall propose safeguards to ensure that best use is made of public resources, that priority is given to schemes supported by the maximum investment by the private sector and that opportunities for the latter to make windfall profits are prevented. In this regard the Commission may, if appropriate, seek the advice and assistance of the European Investment Bank which may act as an intermediary in administering the support financing and bringing about the speedy completion of the projects .*

Or. en

**Amendment 17**

**PPE-DE, UEN**

Consolidated amendment replacing Amendments 509, 510

**Proposal for a directive – amending act**

**Article 1 – point 8**

Directive 2003/87/EC

Article 10a – paragraph 7

*Text proposed by the Commission*

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

*Amendment*

7. **Until an international agreement enters into force and** subject to **Article 28**, the amount of allowances allocated free of charge **to installations not covered by paragraph 2** in 2013 **and each subsequent year** shall be **100%** of the quantity determined in accordance with the measures referred to in paragraph 1 **and without changing the total quantity of allowances according to Article 9.**

Or. en

*Justification*

**Amendment 18**

**PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing amendments 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, ITRE 39, ECON 31, INTA 23, REGI 18

**Proposal for a directive – amending act**

**Article 1 – point 8**

Directive 2003/87/EC

Article 10a – paragraph 7

*Text proposed by the Commission*

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

*Amendment*

7. Subject to Article 10b, the amount of allowances allocated free of charge under paragraphs 3 to 6 of this Article [and paragraph 2 of Article 3c] in 2013 shall be **85%** of the quantity determined in accordance with the measures referred to in paragraph 1 and thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020.

Or. en

## **Amendment 19**

### **PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing amendments 40, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, ECON 33, ECON 34, ECON 35, ECON 36, ECON 37, ECON 38, ECON 39, ECON 40, ECON 41, ECON 42, ECON 43, ECON 44, INTA 24, INTA 25, INTA 26, INTA 27, INTA 28, INTA 29, INTA 30, INTA 31, REGI 20; ITRE 40(cp)

## **Proposal for a directive – amending act**

### **Article 1 – point 8**

Directive 2003/87/EC

Article 10a – paragraph 9

#### *Text proposed by the Commission*

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

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

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

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

#### *Amendment*

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

***The Commission shall consult the sectors and subsectors concerned and other relevant stakeholders.***

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

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

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

*proportion of total production costs;*

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

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

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

*(e) the effect of passing through CO<sub>2</sub> costs on the product prices of the sector or sub-sector concerned.*

*For sectors or sub-sectors that from the quantitative assessment appear at significant risk of carbon leakage, there should be a qualitative assessment to determine whether these sectors or sub-sectors are actually at significant risk, and to inform decisions to be taken under Article 10b. This should include:*

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

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

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

For the purposes of evaluating whether the

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

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

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

For the purposes of evaluating whether the

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

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

Or. en

## **Amendment 20**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing amendments 24, 581, 582, 583, 584, 585, 586, 587, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, INTA 32, INTA 33, ECON 45, ECON 46, REGI 21, ITRE 41

### **Proposal for a directive – amending act**

#### **Article 1 – point 8**

Directive 2003/87/EC

Article 10b

#### *Text proposed by the Commission*

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

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

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

Any binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address

#### *Amendment*

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

Any binding sectoral agreements which lead to global emissions reductions of the magnitude required to effectively address

climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall *also* be taken into account when considering what measures are appropriate.

climate change, and which are monitorable, verifiable and subject to mandatory enforcement arrangements shall be taken into account when considering what measures are appropriate.

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

Or. en

#### **Amendment 21**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL, IND-DEM**

Compromise amendment replacing amendments 27, 619, 620, 621, 622, 623, INTA 34, ECON 47

#### **Proposal for a directive – amending act**

##### **Article 1 – point 9**

Directive 2003/87/EC

Article 11 - paragraph 2

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

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

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

##### *Amendment*

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

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

***2a. No free allocation shall be given to installations where the Annex I activity at the installation has ceased operating or***

*the capacity of the Annex I activity at the installation has dropped below the thresholds contained in that Annex.*

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

Or. en

## **Amendment 22**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL**

Compromise amendment replacing Amendments 32, 665, 666, 667, 668, 671, 672, 673, ECON 49; INTA 36, ITRE 42(cp)

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## **Proposal for a directive – amending act**

### **Article 1 – point 9**

Directive 2003/87/EC

Article 11a – paragraph 7

*Text proposed by the Commission*

*Amendment*

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

**7. From 2013**, only **high quality CERs and high quality ERUs that incentivise the linking of trading systems** from third countries which have ratified **the future international agreement on climate change** shall be accepted in the Community scheme. **In the period 2008 to 2012, allocations in the Community scheme shall be 6,5% less than the emissions in 2005. All operators who, in that period, used a lower percentage of ERUs and CERs compared to their emissions and who do not carry over entitlements under paragraph 2, shall be allowed to use such credits up to 4% of their 2005 emissions each year during the period from 2013 to 2020 as shall new entrants and new sectors. This shall represent up to 40% of the reductions they**

*are required to make during the period from 2008 to 2020.*

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

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

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

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

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

Or. en

### **Amendment 23**

**PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL, IND/DEM**

Compromise amendment replacing amendments 708 (cp), 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, ECON 56, ECON 57, ECON 58, INTA42, ITRE 47,

0

### **Proposal for a directive – amending act**

#### **Article 1 – point 21**

Directive 2003/87/EC

Article 27 – paragraph 1

*Text proposed by the Commission*

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

*Amendment*

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

## measures

1. Member States *may* exclude, from the Community scheme, *combustion* installations which *have a rated thermal input below 25 MW*, reported emissions to the competent authority of less than **10 000** tonnes of carbon dioxide equivalent, excluding emissions from biomass, in each of the preceding 3 years, and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

(a) it notifies the Commission of each such installation, specifying the equivalent measures that are in place,

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

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

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

1. Member States *may at the request of the operator* exclude, from the Community scheme, installations which *have a rated thermal input below 35MW*, reported emissions to the competent authority of less than **25 000** tonnes of carbon dioxide equivalent, excluding emissions from biomass, in each of the preceding 3 years, and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

(a) it notifies the Commission of each such installation, specifying the equivalent measures that are in place,

(b) it confirms that monitoring arrangements are in place to assess whether any installation emits **25 000** tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year;

(c) it confirms that if any installation emits **25 000** tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year or the equivalent measures are no longer in place, the installation will be re-introduced into the system;

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

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

Or. en

## Amendment 24

### PPE-DE, PSE, ALDE, Verts/ALE, GUE/NGL

Compromise amendment replacing amendments 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 772, 773, 774, ECON 59, ECON 60, ECON 61, ECON 62, INTA 43, INTA 44, INTA 45, INTA 46, ITRE 48

## Proposal for a directive – amending act

### Article 1 – point 21

Directive 2003/87/EC

Article 28

#### *Text proposed by the Commission*

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

#### *Amendment*

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

types by operators in the Community scheme to those referred to in paragraphs 2 to 5 of Article 11a or the use by such operators of other mechanisms created under the international agreement, as appropriate.

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

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

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

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

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

***a) to modify the Community quantity of allowances in 2020, taking into account the overall reduction of greenhouse gas emissions by the Community below 20%***

*to which the international agreement commits the Community, consistent with the European Council conclusions of March 2007;*

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

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

Or. en

## **Amendment 25**

**PPE-DE, PSE, ALDE, Verts/ALE**

Compromise amendment replacing amendments 37, 769, 770, 771, 776, 777, 778, ITRE 49

### **Proposal for a directive – amending act**

**Article 1 – point 21 a**

Directive 2003/87/EC

Article 28 a (new)

*Text proposed by the Commission*

*Amendment*

***(21a) The following article 28a is inserted:***

***"Article 28 a***

***Use of credits for afforestation, reforestation and forestry***

***1. Upon ratification of a future international agreement on climate change, Member States shall allow operators of installations to use credits, in accordance with the limit specified in Article 11a(7), up to 5% of the greenhouse gas emission reductions required for the installations covered under Directive 2003/87/EC from:***

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

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

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

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

Or. en