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Committee on the Environment, Public Health and Food Safety

2008/0013(COD)

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CONSOLIDATED AMENDMENTS 26 - 35

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 26

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella

Consolidated amendment replacing Amendments 230, 231, 232, 235, 236, 237, 238, 240, 241, ITRE 21, INTA 13, ECON 12

Proposal for a directive – amending act

Article 1 – paragraph 2 – point b

Directive 2003/87/EC

Article 3 – point h

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 27

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella, Georgs Andrejevs

Consolidated amendment replacing Amendments 758, 759, 817, 818, 819, 820, ITRE 24, INTA 48

Proposal for a directive – amending act

Article 1 – paragraph 2 – point c

Directive 2003/87/EC

Article 3 – point u a (new)

Text proposed by the Commission

Amendment

(u a) 'international agreement' means an 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 and which is legally enforceable, measurable, reportable and verifiable; such international agreement should include a critical mass of global sectoral production and result in an equivalent burden for industries exposed to international competition;

Or. en

Amendment 28

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella

Consolidated amendment replacing Amendments 387, 388, 389, 390, 391, 394, 395, 396, 397, 398, 399, 400, 401, 402, 405, 406, 407, 408, 409, 410, 411, 415, 416, ITRE 33, ECON 27, INTA 20

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 3

Text proposed by the Commission

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

Amendment

The measures referred to in the first subparagraph shall, to the extent feasible **and appropriate, establish harmonised EU wide sector specific ex-ante benchmarks** to ensure that allocation takes place in a manner that gives incentives for greenhouse gas and energy efficient techniques and for reductions in emissions **by the use of benchmarks. They shall be based on the best greenhouse gas and energy techniques and technologies, and take into account the potential, including the technical potential, to reduce emissions, inevitable CO₂-emissions from raw material input and technologies available on the market, including substitutes, generally applicable** alternative production processes, use of biomass **and cogeneration. The measures** shall not give incentives to increase

emissions ***overall in the system or per unit of production***. No free allocation shall be made in respect of any electricity production, ***except for electricity produced in connection with industrial heat consumption or produced from residues from an industrial process provided that it is for the own consumption of the operators of the installations; such allocations shall be made under the same allocation principles as applied to that industrial activity as mentioned in Annex I.***

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

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

Or. en

Justification

In absence of a comprehensive international agreement, benchmarking is the best way to achieve both emissions reductions and avoiding of leakage and should be applied wherever feasible. Benchmarks shall not disincentive existing and future energy efficiency synergies between activities. Waste gas use contributes to CO₂-mitigation, is not comparable to commercial fuel use and thus must not be put under auctioning. Techniques and process conditions, which cannot be applied generally, must not serve as benchmark reference. Efficient cogeneration merits general support. Clarification on the ex-ante nature of the benchmarking system. For systematic reasons, the storage of CO₂ can not be included into a benchmark.

Amendment 29

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella, Georgs Andrejevs

Consolidated amendment replacing Amendments 422, 425, 426, 427

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 2

Text proposed by the Commission

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

Amendment

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

Until June 2016 at the latest the Commission will evaluate the situation regarding the effects of full auctioning on the electricity generators with respect to carbon leakage and, after consultations with the Member States, submit to the European Parliament and the Council any appropriate proposals.

Or. en

Justification

Especially for electricity generators in New Member States the possibility of carbon leakage risk should be taken into consideration.

Amendment 30

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella, Georgs Andrejevs

Consolidated amendment replacing Amendments 371, 388, 391, 394, 395, 396, 397, 19, 368, 387, 372, 399, ITRE 38, INTA 21, 417, 418, 373, 374, 392, 400, 410, 411, 408, 409, 407, 405, 370, 377 (2. part), 492, 493, 495, ECON 27

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 6 – subparagraph 3

Text proposed by the Commission

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

Amendment

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

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

Or. en

Justification

Power and heat produced in connection with industrial processes and residue-based electricity are environment friendly energy supply solutions for industrial processes. CO₂ from the use of waste gases is inseparably linked to the installations producing these gases and thus must be assigned to the generating installation. This corresponds with point 92 of COM (2003)830. Auctioning would unduly burden these installations and discourage efficient waste gas use.

Amendment 31

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella, Georgs Andrejevs

Consolidated amendment replacing Amendments 509, 510, 511

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

Manufacturing industry should receive free allowances based on benchmarks until an international agreement is in force that provides for a level playing field between competitors on a global scale.

Amendment 32

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella, Georgs Andrejevs

Consolidated amendment replacing Amendments 420, 606, 607, 608, ITRE 40

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10a – paragraph 8

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

8. To those sectors where it can be duly substantiated that the risk of carbon leakage cannot be prevented otherwise, where electricity constitutes a high proportion of production costs and is produced efficiently, a maximum quantity of allowances shall be allocated for the CO₂ cost pass-through on electricity. This allocation shall be based on the average yearly defined electricity consumption of those installations and the expected CO₂ cost pass-through of typical marginal price-setting power production. Allowances for the compensation of pass-through of CO₂ cost will be additional to the allocation and subtracted from the overall quantity of allowances allocated according to Article 10(1).

Or. en

Justification

Manufacturing industry should receive free allowances based on benchmarks until an international agreement is in force that provides for a level playing field between competitors on a global scale. Compensation for CO₂-cost pass-through in electricity prices is necessary to avoid significant impact of this driver for leakage risk.

Amendment 33

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella, Georgs Andrejevs

Consolidated amendment replacing Amendments 543, 544, 545, 546, 547, 548, 549, 586, 587, 591, 590, 606, 610, 611, 612, ECON 40, ECON 41, ECON 42

Proposal for a directive – amending act

Article 1 – point 8

Directive 2003/87/EC

Article 10b

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**

1. Not later than June 2011 the Commission shall, in the light of the content of the **International Agreement** and the extent to which **this leads** to global greenhouse gas emission reductions **whilst providing for equal treatment of competing industries** and after consulting with all relevant social partners, submit to the European Parliament and to the Council an analytical report assessing the situation with **special** regard to energy-intensive sectors or sub-sectors or **electricity intensive sectors set out in Article 2(4)(b), indents 3 of Directive 2003/96/EC to determine their exposure** to significant risks of carbon leakage **according to paragraph 3..**

2. **The analytical report referred to in paragraph 1** shall be accompanied by any appropriate proposals, which **take into consideration the timeframe until full implementation and shall** include:

- adjusting the proportion of allowances received free of charge by those sectors or sub-sectors under Article 10a;
- **for leakage effects not covered by other measures carbon equalisation systems for exporters and importers of products produced by the sectors covered by Article 10a. Such systems shall not reduce liquidity of the allowance market**
- **adjusting the number of allowances received free of charge to compensate for the indirect effect of passing through CO₂ costs in electricity prices for those sectors determined in accordance with paragraph 3 as being particularly impacted by this pass-through cost. Allowances for the compensation of pass-through of CO₂ cost will be additional and subtracted from the allowances allocated according to Article 10(1).**

Any binding sectoral agreements which **provide for equal treatment of competing**

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.

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

3. In the determination referred to in paragraph 1, 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 and the indirect effect of CO₂ cost pass-through in power prices in product prices without significant loss of either market share or profitability to installations operating in countries outside the Community that did not impose equivalent and verifiable constraints on emissions, taking into account the following quantitative criteria:

(a) the extent to which auctioning would lead to a substantial increase in production cost for the product itself or its raw materials;

(b) present or projected levels of imports and exports in the sector or sub-sector concerned considering CO₂ as a new cost factor,

(c) the market share in the sector or sub-sector concerned,

(d) transport costs;

(e) the effect of passing through CO₂ costs in electricity prices in the sector or sub-sector concerned

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

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 and the impact on the profitability of the installations

concerned shall be used.

Or. en

Justification

Reference to International Agreement is a consequence of changes in Article 10a.7.

The International Agreement's potential for real global emission reductions should be analysed. Measures should be available to increase the contribution of the ETS sectors but also to combat leakage risks. The first choice should be free allowances.

Article 10a paragraph 9 is an essential part of carbon leakage and therefore has been incorporated in this Article as paragraph 3.

The effect of pass through cost of CO₂ in the electricity prices as to be taken into account when determining the exposure to the risk of carbon leakage.

Risk assessment must be made by quantitative criteria. Both short term leakage mechanisms (market share loss) and long term leakage mechanisms (denial of investment) must be taken into consideration.. The absence of historically visible trade intensity does not imply non-risk but must give rise to investigation of the system- reaction under the imposed CO₂-cost. Risk assessment must –in appropriate form- consider all drivers: direct emissions as well as CO₂-cost pass-through in electricity and raw materials.

Due to the shift from Article 10a.1 to this Article, the reference to Comitology by scrutiny is not fitting anymore and thus has been removed.

Amendment 34

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Kraemer, Salvatore Tatarella

Consolidated amendment replacing Amendments 709, 710, 711, 712, 713, 714, 715, 717, 718, 719, 720, 721, 722

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 27 – paragraph 1

Text proposed by the Commission

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

Amendment

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

the competent authority of less than **10 000** tonnes of carbon dioxide equivalent, excluding emissions from biomass, in each of the preceding 3 years, and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

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

less than **50 000** 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 **50 000** tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year;
- (c) it confirms that if any installation emits **50 000** 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.

Or. en

Amendment 35

Karl-Heinz Florenz, Eija-Riitta Korhola, Amalia Sartori, Françoise Grossetête, Richard Seeber, Paul Rübig, Anja Weisgerber, Holger Krahmer, Salvatore Tatarella, Georgs Andrejevs

Consolidated amendment replacing Amendments 747, 748, 749, 750, 751, 752, ITRE 48, ECON 61

Proposal for a directive – amending act

Article 1 – point 21

Directive 2003/87/EC

Article 28 – paragraph 2

Text proposed by the Commission

2. From the year following the conclusion

Amendment

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.***

of the international agreement referred to in paragraph 1, the ***Commission shall, on the basis of a full impact assessment of the cost effectiveness of the means to achieve these reductions as well as impacts of other measures detailed within the international agreement and in particular as to whether the conditions set out in the definition of the International Agreement are satisfied, submit a legislative proposal to the European Parliament and the Council suggesting a further reduction of*** 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.

Or. en

Justification

The reactions to the conclusions of the negotiations on an international agreement must not be an automatism but must be subject to evaluation and co-decision between Parliament and Council.