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MOTION FOR A RESOLUTION

pursuant to Rule 88(2) and (4)(b) of the Rules of Procedure

by **Philippe Juvin, Pilar Ayuso, Jolanta Emilia Hibner, Radvilė Morkūnaitė-Mikulėnienė, Theodoros Skylakakis, Bogusław Sonik, and Konrad Szymański**

on the draft Commission decision determining transitional Union-wide rules for the harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC

Committee on the Environment, Public Health and Food Safety

European Parliament resolution on the draft Commission decision determining transitional Union-wide rules for the harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC

The European Parliament,

- having regard to Directive 2003/87/EC as amended by Directive 2009/29/EC of the European Parliament and of the Council of 13 October 2009 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC¹ (as amended), and in particular Articles 1 and 10a thereof,
 - having regard to Commission Decision 2010/02/EU of 24 December 2009 determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage²,
 - having regard to the draft Commission Decision determining transitional Union-wide rules for the harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC (referred to as "the draft Commission Decision"),
 - having regard to Article 5a(3)(b) of the Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission³,
 - having regard to Rule 88(2) and (4)(b) of its Rules of Procedure,
- A. whereas Parliament welcomes and supports the objectives of the "Climate and Energy" Package, which was supported by the French Presidency in 2008, and especially Directive 2009/29/EC, which has as its initial objective the reduction of greenhouse gas emissions of -21% in 2020 from 2005 in a progressive way so as not to jeopardise the competitiveness of European industries;
- B. whereas Article 5(4) of the Treaty on European Union states that "under the principle of proportionality", the institutions of the European Union and especially the Commission shall not exceed in "the content and the form" of their action "what is necessary to achieve the objectives of the Treaties";
- C. whereas the economic and financial crisis have had a negative impact on the competitiveness of industries, and whereas it is necessary to protect EU industries and avoid placing on them additional burdens which could reduce their competitiveness;

¹ OJ L 275, 25.10.2003, p.32.

² OJ L 1, 5.1.2010, p.10.

³ OJ L 184, 17.7.1999, p. 23.

- D. whereas the aim of the Emissions Trading Scheme (the ETS), as stated in Article 1 of Directive 2003/87/EC as amended by Directive 2009/29/EC is "to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner" in a progressive and predictable way towards 2020 to preserve the competitiveness of industries, and whereas the EU ETS should operate with the highest possible degree of economic efficiency (Recitals 13 and 15 in the preamble to Directive 2009/29/EC) and eliminate distortions of intra-community competition (Recital 17 of the Directive 2009/29/EC);
- E. whereas the refining, petrochemical and fertiliser industries and the lime, iron and steel sectors have, among others, been considered by the Commission as sectors and subsectors exposed to a significant risk of carbon leakage as defined in Decision 2010/2/EC;
- F. whereas, in accordance with Rule 88 of its Rules of Procedure, Parliament opposes the draft Commission Decision on the grounds that it fails to respect the criterion of compatibility with the aim or content of the basic instrument and violates the principle of proportionality;
- G. whereas the draft Commission Decision should be modified to include progressive implementation in accordance with Directive 2009/29/EC in relation to the benchmarks for the refining, petrochemical and fertiliser sectors and to take into account geographical issues and fuel specificity for the lime, dolime and coal sectors;

Refining, petrochemical and fertiliser sectors: consequences of the non-progressive application of the benchmarks

- H. whereas EU-based nitric acid and ammonia production plants, which still effectively use older generation technologies, may have to be shut down on the grounds that it would be economically unsound to make modernisations in the timescales required in order to reach the benchmark limits proposed in the draft Decision;
- I. whereas the draft Commission Decision provides for an immediate application of the benchmarks, which is based on the arithmetic average of the greenhouse gas performance of the 10% most greenhouse gas efficient installations within each sector from 2013;
- J. whereas an immediate application of the benchmarks will lead to a deficit of 25% free allocation emissions (30% if emissions of electricity production are taken into account) and an increase of 10% of operating expenses; whereas a progressive application could allow the refining and petrochemical sectors to reduce the annual financial constraint of 60% during the 2013-2016 period; and whereas a sudden and non-progressive application of the two benchmarks and reference principles applicable to the fertiliser industries would lead to a global overhead of 360 million Euros for European industries in this sector;
- K. whereas an immediate application of the benchmarks from 2013 could have a real socio-economic impact on the refining, petrochemical and fertiliser sectors; whereas the installations of those industries would be at risk of closure due to a lack of investment availability leading to their competitiveness being put in jeopardy, outsourcing and an

increase of refined products imports from states with lower environmental standards than European standards; whereas in this way the European Union could jeopardise its initial objectives, which are to reduce the impact of greenhouse gas emissions on climate change and to protect industries and their competitiveness; whereas in calculating benchmark levels, the Commission should ensure the use of the latest scientific data on the global warming potential as specified in the Directive itself;

- L. whereas those sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage are all the more vulnerable in that they will be subjected to a revision of the list established by Decision 2010/2/EU of the Commission;

Lime and dolime sectors

- M. whereas the lime and dolime sectors are very important sectors in Greece; and whereas 80% of lime and dolime production is used for efficient anti-seismic construction material, which is indispensable in Member States with high levels of seismic activity such as Greece and South Italy;
- N. whereas the draft Commission Decision provides for a benchmark for the lime and dolime sector based on a technology using natural gas; and whereas this technology is restrictive and inadequate because natural gas is not an appropriate fuel for lime production provided for anti-seismic construction;
- O. whereas 95% of the lime producing installations do not have access to the natural gas grid, and if the geographical criterion is not taken into account within the benchmark, industries in the lime and dolime sectors would be subjected not only to an economic overhead but also to an increase of gas emissions due to lime transport from a third country with less restrictive environmental standards;

Waste gases

- P. whereas Article 10a (1) of Directive 2003/87/EC provides for free allocation for electricity produced from waste gases;
- Q. whereas the draft Commission Decision does not fulfil this requirement as it provides only a part of the allocation for electricity produced from waste gases for free;

Incompatibility with the aim and content of the Directive 2009/29/EC

- R. whereas the non-consideration of the progressive application of the benchmark for the refining, petrochemical and fertiliser sectors in the draft Commission Decision is not compatible with the aim or the content of the basic instrument because Directive 2009/29/EC provides for a progressive implementation of the benchmark; whereas the Commission should carry out technico-economic assessments on the effects of the immediate application on sectors and sub-sectors exposed to the significant risk of carbon leakage and should modify its draft Decision by inserting in addition the principle of

progressivity for sectors exposed to carbon leakage;

Violation of the principle of proportionality

- S. whereas issues of fuel access, geographical specificity and the fuel efficiency level for the sectors affected have not been taken into account in the draft Decision Commission which results in a violation of the principle of the proportionality;
 - T. whereas in its draft Decision; the Commission, by exceeding what is necessary to achieve its objective of gas reduction for the lime and coal sectors, has not respected the principle of proportionality;
 - U. whereas in the setting of the benchmarks, the full carbon in waste gases should have been assigned to the steel making process and therefore the draft Commission Decision is not compatible with the aim and the content of the Article 10a of Directive 2003/87/EC and does not respect the principle of proportionality;
1. Opposes the adoption of the draft Commission Decision determining transitional Union-wide rules for the harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC;
 2. Considers that the draft Commission Decision is not compatible with the aim and content of Directive 2003/87/EC and does not respect the principle of proportionality;
 3. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.