Committee on Industry, Research and Energy

2015/0148(COD)

26.4.2016

DRAFT OPINION

of the Committee on Industry, Research and Energy

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

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments
(COM(2015)0337 – C8-0190/2015 – 2015/0148(COD))

Rapporteur (*): Fredrick Federley

(*) Associated committee – Rule 54 of the Rules of Procedure

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SHORT JUSTIFICATION

The world is moving towards a low carbon economy, the Paris climate agreement adopted last year marks this development irreversible. The agreement sets out ambitious goals, and for the EU it is important to deliver on its promises. It is equally important that we seize the vast opportunities connected to the transformation of our economy into a low-carbon economy.

Europe has over ten years of experience with the EU emissions trading system (EU ETS). The EU ETS is the world's largest cap-and-trade scheme, covering over 11,000 power plants and industrial installations. It has been successful in bringing climate change on the agenda of boardrooms, by introducing a price on carbon – which has helped to stimulate investments in low-carbon technologies. Governments and the private sector are making the case for carbon markets all across the world, as a tool that can secure competitiveness, encourage innovation, and deliver meaningful emissions reductions. A growing group of countries, including notably China, uses or will use carbon markets to achieve its climate objectives.

In July 2015, the European Commission presented a proposal to revise the EU ETS Directive in order to reach the EU's objective of at least 40% domestic greenhouse gas emission cuts in 2030. The rapporteur welcomes the proposed reforms. However, some elements must be strengthened in order to ensure the integrity of the system, the predictability for industry and a level playing field across companies, sectors and Member States. It is vital, also in view of the recently adopted Paris agreement, that the EU ETS continues to drive adequate emission cuts. At the same time, it must prevent undue carbon costs for the best performing industries which are genuinely exposed to the risk of carbon leakage.

Delivering cost-efficient emission reductions

According to the current Directive, carbon leakage provisions end in 2020. However, for some industrial sectors it will remain necessary to continue the free allocation temporarily, as an exemption to the general rule of auctioning as main allocation method, to prevent the risk of carbon leakage. Allocation rules and benchmarks must be both realistic and provide an incentive for continuous process improvements. More frequent adjustments according to actual production data is needed in order to avoid over-allocation and to not discourage efficient industries from growing. The free allocation must be better targeted on those sectors most exposed to carbon leakage risk, ensuring full support for sectors in greatest need. This approach will minimise the need to apply a cross-sectoral correction factor that may otherwise unjustly and bluntly disadvantage the competitiveness of some industrial sectors.

Driving industrial innovation

The EU ETS can and should be a powerful tool to help scaling up innovative low-carbon technologies. The rapporteur welcomes the Commission's proposal to increase the size of the innovation fund, and the extended scope to low-carbon innovation in industrial sectors. However, the EU ETS currently fails to promote low-carbon investments and innovation on the scale needed to achieve medium and long term climate objectives. It needs a stronger innovation fund with an additional 150 million allowances to leverage private investments in breakthrough industrial technologies. As the EU ETS cap tightens and the carbon leakage provisions are reformed, the ultimate aim being 100% auctioning, policies to support investment in the transition to a low carbon economy become increasingly more important.

Consistent with an increasingly integrated energy market

The reform of the EU ETS, along with its impact on energy production and energy trade, should be consistent with the objectives of the Energy Union. An innovative and modern European energy system is vital, and more resources should be directed towards this aim. Post-2020 EU ETS rules aimed at the power sector or at the compensation of indirect carbon costs for electricity consumers need to be more harmonised, and should aim to establish a level playing field and not to distort competition in the electricity market between Member States. The transitional free allocation to the energy sector in lower income member states must be conducted in a transparent manner, ensuring economically viable projects in line with EU's long term energy and climate goals. A general review of the interaction between the EU ETS and other climate, air quality and energy policies at European and national level should be conducted regularly, in order to avoid overlapping policies and negative interaction between different instruments.

Building on the Paris agreement

What effects the Paris climate agreement will have for the EU ETS is not yet explored in detail, and is thus not possible to fully take into account for the start of phase 4.

While the Kyoto Protocol only covered 12 % of global emissions, countries accounting for over 95 % of global emissions are now required to implement national climate plans and increase ambition each fifth year. The EU ETS Directive must therefore be aligned with the Paris agreement, including the establishment of an EU ETS ratchet up mechanism that makes it possible to regularly revise the carbon leakage provisions and level of ambition.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive
Recital 6

Text proposed by the Commission	*Amendment*
(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[18] 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[19] .	(6) The auctioning of allowances remains the general rule, with free allocation as the ***temporary*** 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[18] 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[19] .
___________________	___________________
[18] SEC(2015)XX	[18] SEC(2015)XX
[19] Decision (EU) 2015/… of the European Parliament and of the Council of … concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L […], […], p. […]).	[19] Decision (EU) 2015/… of the European Parliament and of the Council of … concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L […], […], p. […]).

Or. en

Amendment 2

Proposal for a directive
Recital 9

Text proposed by the Commission	*Amendment*
(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	(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. 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 use auction revenues to promote skill formation and reallocation of labour affected by the transition of jobs in a decarbonising economy.***	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. 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.

Or. en

Amendment 3

Proposal for a directive
Recital 11

Text proposed by the Commission	*Amendment*
(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	(11) A Modernisation Fund should be established from ***10% of the allowances to be auctioned and*** 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

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. 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.

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 ***in line with the Union's long term climate and energy goals,*** 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 ***and energy project criteria*** of the EIB in the decision-making process. Investments financed from the fund should be proposed by the Member States. 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.

Or. en

Justification

The European Commission proposes the redistribution of 10% of EU allowances for auctions for the purposes of solidarity and growth in lower-income Member States, at the expense of the auctioning share of higher-income Member States. Adding these allowances to the Modernisation Fund would mean the governance framework of the Modernisation Fund can be used to ensure the auctioning revenues provide value for money and are truly benefitting investments in energy system modernisation and energy efficiency. The funds should enable lower-income Member States to leapfrog low-emissions development.

Amendment 4

Proposal for a directive
Recital 12

Text proposed by the Commission	*Amendment*
(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.	(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 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. 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.

Or. en

Justification

The €10 million threshold creates a severe risk of arbitrage by project developers. Modernisation investments above the threshold could be distributed over subprojects falling below the threshold, which would reduce transparency and increase the risk of energy market distortions. Therefore the threshold should be removed.

Amendment 5

Proposal for a directive
Recital 13

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

Or. en

Justification

This framework established by the European Investment Bank provides robust and independent screening and assessment criteria, building on the experience and proven track record of the Bank with European energy projects.

Amendment 6

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

Text proposed by the Commission	*Amendment*
(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."***; ***and***	(b) 10% of the total quantity of allowances to be auctioned being ***added to the Modernisation Fund as set out in Article 10d of this Directive***, thereby increasing the amount of allowances***;***

Or. en

Justification

The European Commission proposes the redistribution of 10% of EU allowances for auctions for the purposes of solidarity and growth in lower-income Member States, at the expense of the auctioning share of higher-income Member States. Adding these allowances to the Modernisation Fund would mean the governance framework of the Modernisation Fund can be used to ensure the auctioning revenues provide value for money and are truly benefitting investments in energy system modernisation and energy efficiency. The funds should enable lower-income Member States to leapfrog low-emissions development.

Amendment 7

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

Present text	*Amendment*
	(ba) in paragraph 3 the first subparagraph is replaced by the following:
"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:	"3. Member States shall determine the use of revenues generated from the auctioning of allowances. At least ***75%*** 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, ***shall*** be used for one or more of the following:

Or. en

Justification

It should be mandatory for the member states to use at least 75% of the auction revenues for climate action, in line with the aims of the Directive.

Amendment 8

Proposal for a directive
Article 1 – paragraph 1 – point 4 – point c

Text proposed by the Commission	*Amendment*
(c) in paragraph 3***, the following points "(j)", "(k)" and "(l)" are added:***	(c) in paragraph 3, ***first subparagraph,*** the following ***point is inserted:***
"(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);	
(k) for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate change;	***(ha)*** for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate change;
(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."	

Or. en

(Point (j) becomes point (b) under Article 10(3) subparagraph 1 a (new) and point (k) becomes point (ha) under Article 10(3) subparagraph 1)

Amendment 9

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

Present text	*Amendment*
	(ca) in paragraph 3, the following subparagraph is inserted:
	"In addition, revenues may be used for one or more of the following:
(i) to cover administrative expenses of the management of the Community scheme.	***(a)*** to cover administrative expenses of the management of the Community scheme.
	(b) 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)."

Or. en

(Point (j) becomes point (b) under Article 10(3) subparagraph 1 a (new) and point (k) becomes point (ha) under Article 10(3) subparagraph 1)

Amendment 10

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

Text proposed by t	*Amendment*
	(cb) in paragraph 3, the following subparagraph is added:
	"This information shall be provided through a standardised template provided by the Commission, with a minimum level of detail allowing for transparency and comparability, including information on additionality of the funds. The Commission shall make this information public on its website."

Or. en

Justification

The current quality of reporting by Member States of their use of the auction revenues varies significantly between member states, making the system non-transparent and difficult to compare between member states.

Amendment 11

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

Text proposed by the Commission	*Amendment*
	(cc) in paragraph 4, the following subparagraph is added:
	"If Member States decide on national measures for early closure of electricity generation capacity, Member States should report this to the Commission and other Member States, and may retire a share of the auctioning volume with a level equal to the related emissions."

Or. en

Justification

Member State measures for early closure of power plants can have a significant impact on the energy market and allowance price levels. The requirement for Member States to inform each other and the Commission, and the possibility for Member States to adjust the auctioning volume accordingly would increase predictability in the carbon market and energy sector and thereby certainty for investors.

Amendment 12

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

Text proposed by the Commission	*Amendment*
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***.	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 ***changes. Any 10% increase or decrease 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 should be adjusted with a corresponding amount of allowances by placing allowances into and releasing allowances from the reserve referred to in paragraph 7***.

Or. en

Justification

Ex-post dynamic adjustments more sensitive to smaller changes in production are needed to prevent over-compensation as well as under-compensation of free allowances. This would also insulate the carbon market from the shocks brought on by the swing in business cycles and would better insulate best performers who are carbon leakage exposed as they increase production.

Amendment 13

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

Present text	*Amendment*
	(aa) paragraph 2 is amended as follows:
In defining the principles for setting ex-ante benchmarks in individual sectors or subsectors, the starting point shall be the average performance of the 10 % most efficient installations in a sector or subsector in the Community in the years 2007-2008. The Commission shall consult the relevant stakeholders, including the sectors and subsectors concerned.	In defining the principles for setting ex-ante benchmarks in individual sectors or subsectors, the starting point shall be the average performance of the 10 % most efficient installations in a sector or subsector in the Community in the years 2007-2008. The Commission shall consult the relevant stakeholders, including the sectors and subsectors concerned. ***Free allocation shall only be given to sectors and subsectors for which data is provided in accordance with harmonised established methodology, in order to ensure equality and transparency."***
The regulations pursuant to Articles 14 and 15 shall provide for harmonised rules on monitoring, reporting and verification of production-related greenhouse gas emissions with a view to determining the ex-ante benchmarks.	The regulations pursuant to Articles 14 and 15 shall provide for harmonised rules on monitoring, reporting and verification of production-related greenhouse gas emissions with a view to determining the ex-ante benchmarks, ***taking into account the long term emissions reduction potential in view of achieving the Union's long term climate goals.***

Or. en

Justification

Justification: All product benchmarks should be based on real data. For those sectors and sub-sectors that have not provided the data necessary to establish benchmarks based on reality, the Commisison should withhold the free allocaton to those sectors or subsectors until the data requested by the Commission has been provided.

Amendment 14

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point b

Directive 2003/87/EC
Article 10a – paragraph 2 – point i

Text proposed by the Commission	*Amendment*
(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 the middle of the period for which free allocation is to be made***;***	(i) On the basis of ***verified production, emissions and other necessary data*** 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 the middle of the period for which free allocation is to be made***. For sectors with unavoidable process emissions and where the real production and efficiency data submitted pursuant to Article 11 shows annual reductions below 0.3% in respect of each year between 2008 and the middle of the period for which free allocation is to be made, the benchmark value shall be adjusted by 0.3%.***

Or. en

Justification

The introduction of a lower category ensures that all sectors including those facing the most technological challenges get feasible benchmark updates.

Amendment 15

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

Text proposed by the Commission	*Amendment*
The Commission shall adopt an implementing act for this purpose in accordance with Article 22a.	The Commission shall adopt an implementing act for this purpose in accordance with Article 22a. ***The implementing act should take into***

	consideration sectoral specificities and shall aim at reducing the administrative burden, particularly on small emitters and SMEs, in data collection and analysis.

Or. en

Justification

The need to reduce the administrative burden, particularly on small emitters and SMEs, needs to be taken into consideration.

Amendment 16

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

Text proposed by the Commission	*Amendment*
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.	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 ***and the best available options to reduce the carbon output of electricity production, in a technology-neutral manner***. Such financial measures to compensate part of these costs shall be ***in accordance with state aid rules, in a manner that incentivises a switch to less carbon intensive energy sources. The following conditions shall apply:*** ***(a) if the allowance price is on average below 15 €for more than two consecutive years, the greenhouse gas emission costs actually incurred are deemed insignificant and no compensation is allowed;*** ***(b) if the allowance price is on average at or above 15 €for more than two***

	consecutive years, 50% of the greenhouse gas emission costs actually incurred above this price level may be compensated for;
	(c) if the allowance price is on average at or above 25 €for more than two consecutive years, the greenhouse gas emission costs actually incurred above this price level may be compensated on the maximum level in accordance with state aid rules.

Or. en

Justification

More harmonised rules for indirect cost compensation is needed in order to create a more EU level playing field between sectors.

Amendment 17

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

Text proposed by the Commission	*Amendment*
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 Council(*)***.	***3% of the Community wide quantity of allowances issued in accordance with Articles 9 and 9a over the period from 2021 to 2030*** shall be set aside for new entrants and significant production increases.

Or. en

Justification

This amendment scales up the reserve for new entrants and significant production increases. 3% of the phase 4 cap corresponds to approximately 465 million allowances, while the Commission proposes a reserve of approximately 400 million allowances. A bigger reserve is required to facilitate ex-post dynamic adjustment to allocation with reasonable thresholds for production changes.

Amendment 18

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

Text proposed by the Commission	*Amendment*
From 2021, allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the reserve.	From 2021, allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the ***market stability*** reserve.

Or. en

Justification

Clarification of the legal text: unallocated allowances as a result of Article 10a paragraph 19 and 20 are added to the Market Stability Reserve.

Amendment 19

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

Text proposed by the Commission	*Amendment*
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 innovative renewable energy technologies, in the territory of the Union.	400 million allowances shall be available to ***leverage investments, using a variety of instruments managed by the European Investment Bank, in*** 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 innovative renewable energy technologies, in the territory of the Union.

Or. en

Justification

The European Investment Bank should be enabled to use a variety of financial instruments to *accelerate innovative low-carbon investments, including grants, loans and equity participation.*

Amendment 20

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

Text proposed by the Commission	*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 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.	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***. Eligible low-carbon industrial projects shall contribute to emissions reductions of at least 20% below the benchmark as set out in paragraph 2 and should enhance competitiveness and productivity. Eligible CCS and innovative renewable energy projects should reduce the levelised costs of electricity production with the technology by at least 20%***. 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. ***The Commission shall publish before 2018 the state aid guidelines for Member State co-financing of eligible projects.***

Or. en

Justification

Industry breakthrough technologies should contribute to very significant emission reductions in order to be considered a real breakthrough. Moreover, the innovation should help to make the firm to become more competitive and productive in order to be taken up further by the sector with private investments, and remain viable in the long-term. As zero carbon energy technologies are already demonstrated, the Innovation Fund should primarily contribute to *further reducing the costs of CCS and renewable energy technologies. In order to start projects timely, investors and Member States should have knowledge about the relevant state aid rules well in time.*

Amendment 21

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

Text proposed by the Commission	*Amendment*
In addition, 50 million unallocated allowances from the market stability 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.	In addition, 50 million unallocated allowances from the market stability reserve established by Decision (EU) 2015/… ***and unused funds resulting from NER300 allowance auctions between 2013 and 2020*** shall supplement any existing resources remaining under this paragraph for projects referred to above, ***from 2018 onwards***. Projects shall be selected on the basis of objective and transparent criteria.

Or. en

Justification

A significant sum of the current NER300 funds under phase 3 remains unused under the current rules. These funds should be released as soon as possible so to contribute to investments in innovative renewable energy technology, CCS and industrial breakthrough technologies and processes.

Amendment 22

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

Text proposed by the Commission	*Amendment*
	In addition, 150 million of the allowances from the maximum amount referred to Article 10a(5) of this Directive which were not allocated for free up to 2020 shall be placed in the innovation fund and be set aside for innovation in low-carbon

	industrial technologies and processes.

Or. en

Justification

The support for innovation in the EU ETS needs to be scaled up with a greater emphasis on industrial low carbon technologies. The 150 million unallocated allowances referred to should be placed in the innovation fund and be reserved for innovation in low-carbon industrial technologies and processes.

Amendment 23

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

Text proposed by the Commission	*Amendment*
	The monetisation of allowances for the innovation fund shall time the auctioning of allowances in such a way to provide certainty of available funds, while avoiding a negative impact on the orderly functioning of the carbon market.

Or. en

Justification

It is important that the timing of monetisation of allowances for the funds strikes the right balance between providing certainty of available funds and avoiding a negative impact on the carbon market.

Amendment 24

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

Text proposed by the Commission	*Amendment*
Measures to support certain energy-intensive industries in the event of carbon leakage	***Transitional*** measures to support certain energy-intensive industries in the event of carbon leakage

Or. en

Amendment 25

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

Text proposed by the Commission	*Amendment*
1. Sectors and sub-sectors ***where the product exceeds 0.2 from multiplying*** their intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries), by their emission intensity, measured in kgCO2 divided by their gross value added (in €), shall be deemed ***to be at*** risk of carbon leakage***. Such*** sectors and sub-sectors shall be allocated allowances free of charge for the period up to 2030 at ***100%*** of the quantity determined in accordance with the measures adopted pursuant to Article 10a.	1. ***To determine the exposure to risk of carbon leakage for*** sectors and sub-sectors ***and in view of avoiding windfall profits,*** their intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries)***, shall be multiplied*** by their emission intensity, measured in kgCO2 divided by their gross value added (in €)***. If this product exceeds 2,5***, ***these sectors and sub-sectors*** shall be deemed ***at high risk of carbon leakage and be allocated allowances free of charge for the period up to 2030 at 100% of the quantity determined in accordance with the measures adopted pursuant to Article 10a. If this product exceeds 1.0, these sectors and sub-sectors shall be deemed at medium*** risk of carbon leakage ***and be allocated allowances free of charge for the period up to 2030 at 80% of the quantity determined in accordance with the measures adopted pursuant to Article 10a. If this product exceeds 0,2, these*** sectors and sub-sectors shall be ***deemed at low risk of carbon leakage and be*** allocated allowances free of charge for the period up to 2030 at ***60%*** of the quantity determined in accordance with the measures adopted pursuant to Article 10a. ***If this product is below 0,2, these sectors and sub-sectors shall be deemed at insignificant risk of carbon leakage and***

	shall not be allocated allowances free of charge for the period up to 2030.

Or. en

Justification

Free allocation is a temporary exception to the general rule of auctioning of allowances, and should only be eligible for sectors with significant risk of carbon leakage. Better targeting on those sectors genuinely and most exposed to carbon leakage risk in a manner that ensures full support for those sectors in greatest need is necessary in order to minimise the need to apply a cross-sectoral correction factor.

Amendment 26

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

Text proposed by the Commission	*Amendment*
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:	***deleted***
(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.	

Or. en

Justification

As the targeted approach will better differentiate sectors based on genuine exposure to carbon leakage, an additional qualitative assessment is no longer required and would unnecessarily increase the administrative complexity.

Amendment 27

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

Text proposed by the Commission	*Amendment*
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. Other sectors and sub-sectors are considered to be able to pass on more of the cost of allowances in product prices, and shall ***not*** be allocated allowances free of charge for the period up to 2030.

Or. en

Justification

There is no rationale to hand out free allocation to those sectors not deemed to be at risk of significant carbon leakage.

Amendment 28

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

Text proposed by the Commission	*Amendment*
	4 a. The Commission shall keep under assessment the international context and the development of carbon pricing mechanisms outside the EU. Based on this assessment, five years after the date referred to in paragraph 4, the Commission may reduce the list referred to in paragraph 1.

Or. en

Justification

The new Paris agreement states that the Parties to the Agreement shall periodically take stock of the implementation of the Agreement to assess the collective progress towards achieving *the purpose of the Agreement and its long-term goals. The first stocktake should take place 2023 and every fifth year thereafter. According to the decisions taken in Paris, parties whose intended nationally determined contribution contains a time frame up to 2030 should communicate or update by 2020 these contributions and do so every five years thereafter. In order to adjust this Directive to decisions taken in Paris the suggested amendment is necessary.*

Amendment 29

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

Text proposed by the Commission	*Amendment*
	4 b. In view of the global stocktake five year review cycle as set out in the Paris agreement, starting in 2023, the Commission shall review the carbon leakage provisions and the ambition level in line with the Paris agreement's ratchet up mechanism, and if appropriate submit a legislative proposal to the European Parliament and to the Council.

Or. en

Justification

The new Paris agreement states that the Parties to the Agreement shall periodically take stock of the implementation of the Agreement to assess the collective progress towards achieving the purpose of the Agreement and its long-term goals. The first stocktake should take place 2023 and every fifth year thereafter. According to the decisions taken in Paris, parties whose intended nationally determined contribution contains a time frame up to 2030 should communicate or update by 2020 these contributions and do so every five years thereafter. In order to adjust this Directive to decisions taken in Paris the suggested amendment is necessary.

Amendment 30

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

Text proposed by the Commission	*Amendment*
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.	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 ***and have fully transposed and implemented the Third Energy Package (*),*** may give a transitional free allocation to installations for electricity production for the modernisation of the energy sector.
	(*) The Third Energy Package contains two Directives and three Regulations: Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003, Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005, Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators

Or. en

Justification

In case a Member State does not ensure that the energy market operates in accordance with EU rules, the use of transitional free allocation may exacerbate market distortions and undermine cost-efficient delivery of the EU's climate objectives.

Amendment 31

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

Text proposed by the Commission	*Amendment*
2. The Member State concerned shall organise a competitive bidding process for projects ***with a total amount of investment exceeding €10 million*** to select the investments to be financed with free allocation. This competitive bidding process shall:	2. The Member State concerned shall organise a competitive bidding process for projects to select the investments to be financed with free allocation. This competitive bidding process shall:

Or. en

Justification

The €10 million threshold creates a severe risk of arbitrage by project developers. Modernisation investments above the threshold could be distributed over subprojects falling below the threshold, which would reduce transparency and increase the risk of energy market distortions. Therefore the threshold should be removed.

Amendment 32

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

Text proposed by the Commission	*Amendment*
(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;	(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, ***including district heating,*** transmission and distribution sectors are eligible to bid;

Or. en

Justification

The funds should also be used for the renovation or expansion of existing district heating networks, as district heating strongly contributes to greenhouse gas emission reductions and increased energy efficiency.

Amendment 33

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

Text proposed by the Commission	*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;	(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 ***in line with Annex I of the European Investment Bank Climate Strategy***;

Or. en

Justification

This framework established by the European Investment Bank provides robust and independent screening and assessment criteria, building on the experience and proven track record of the Bank with European energy projects.

Amendment 34

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

Text proposed by the Commission	*Amendment*
(ii) are additional, clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand;	(ii) are additional, clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand ***and were not included in the national investment plan for phase 3***;

Or. en

Justification

Modernisation projects that were already included in the National Investment Plan in ETS phase 3, i.e. 2013-2020, should not receive double support.

Amendment 35

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

Text proposed by the Commission	*Amendment*
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.	***deleted***

Or. en

Justification

All projects should be selected through a competitive bidding process.

Amendment 36

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

Text proposed by the Commission	*Amendment*
	In the situation of infringement of EU climate and energy legislation, including the Third Energy Package, or the criteria set out above, the Commission may require the Member State to withhold free allocation.

Or. en

Justification

In case a Member State does not ensure that the energy market operates in accordance with EU rules, the use of transitional free allocation may exacerbate market distortions and *undermine cost-efficient delivery of the EU's climate objectives. In case Member States must withhold free allocation, electricity producers remain in the position to obtain emission allowances at auctions or on the secondary allowance market.*

Amendment 37

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

Text proposed by the Commission	*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.	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. ***Up to 60% of the relevant costs of the intended investments may be supported.***

Or. en

Justification

The investment support should leverage private investments but the projects should not fully depend on public support, in order to get the best value for money. Makes the level of funding consistent with the Innovation Fund.

Amendment 38

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

Text proposed by the Commission	*Amendment*
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.	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 ***annually*** report on this to the Commission, and the Commission shall make such reports public.

Or. en

Justification

Legal clarification to ensure that Member States do not only collect the reporting annually, but that they also report annually to the Commission.

Amendment 39

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

Text proposed by the Commission	*Amendment*
	6a. The Commission shall be empowered to adopt a delegated act in accordance with Article 23 to implement this article.

Or. en

Justification

In the final design of the post 2020 rules for transitional free allocation, the Commission should be able to take into account further experience gained with the use of transitional free allocation during the next years in phase 3.

Amendment 40

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

Text proposed by the Commission	*Amendment*
The investments supported shall be consistent with the aims of this Directive ***and*** the European Fund for Strategic Investments.	The investments supported shall be consistent with the aims of this Directive***, the Union's long term climate and energy goals,*** the European Fund for Strategic Investments***, and Annex I of the European Investment Bank Climate Strategy***.

Or. en

Justification

This framework established by the European Investment Bank provides robust and independent screening and assessment criteria, building on the experience and proven track *record of the Bank with European energy projects.*

Amendment 41

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

Text proposed by the Commission	*Amendment*
	3 a. Any of the Member States referred to in paragraph 1 which have chosen to grant transitional free allocation pursuant to Article 10c may transfer these allowances to its share of the Modernisation Fund set out in Annex IIb and allocate them pursuant to the provisions of Article 10d.

Or. en

Justification

Combining the governance mechanisms and procedures of the Modernisation Fund and modernisation investments related to transitional free allocation would reduce the administrative burden for Member States and introduce a consistent set of rules for investors that are looking for either support under the Article 10c or the Modernisation Fund.

Amendment 42

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

Text proposed by the Commission	*Amendment*
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 criteria. The management committee shall	The fund shall be governed by an investment board and a management committee, which shall be composed of representatives from ***three*** 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***, in line with the EIB investment criteria and consistent with Union policies***, appropriate financing

be responsible for the day-to-day management of the fund.	instruments and investment selection criteria. The management committee shall be responsible for the day-to-day management of the fund.

Or. en

Justification

There should be a balanced representation between beneficiary Member States and other Member States, as the funds under the Modernisation Fund are European resources.

Amendment 43

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

Text proposed by the Commission	*Amendment*
The management committee shall be composed of ***representatives*** appointed by the investment board. Decisions of the management committee shall be taken by simple majority.	***The composition of the management committee shall strive to be gender-balanced.*** The management committee shall***, following an open and transparent selection procedure,*** be composed of ***independent experts,*** appointed by the investment board ***for a fixed term***. Decisions of the management committee shall be taken by simple majority.
	The independent experts shall have a high level of relevant market experience in project structuring and project financing. The investment board shall strive to select experts having experience in investment in one or more of the following fields: research, development and innovation; energy infrastructures, energy efficiency and renewable energy; environmental protection and management; and SMEs.
	CVs and declarations of interest of the members of the management committee shall be made public and constantly updated. The investment board should on an ongoing basis check the absence of any conflict of interest.

Or. en

Justification

Considering that the Modernisation Fund will manage significant fund on behalf of all Member States, strong criteria should be provided for by the legislators. The suggested approach is consistent with the EFSI regulation.

Amendment 44

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

Text proposed by the Commission	*Amendment*
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 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.	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 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 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.

Or. en

Amendment 45

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

Text proposed by the Commission	*Amendment*
	Decisions approving the use of the fund shall be public and accessible. The minutes of the investment board meetings shall be published as soon as they have

	been approved by the investment board. The investment board shall submit twice a year to the European Parliament, the Council and the Commission a list of all decisions of the managing committee rejecting the use of the fund. The Chairman of the investment board shall report to the European parliament on a yearly basis.

Or. en

Justification

Considering that the Modernisation Fund will manage significant funds on behalf of all Member States, strong criteria should be provided for by the legislators. The suggested approach is consistent with the EFSI regulation.

Amendment 46

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

Text proposed by the Commission	*Amendment*
(b) an assessment of the added value in terms of energy efficiency or modernisation of the energy system achieved through the investment;	(b) an assessment of the added value in terms of energy efficiency***, emission reductions,*** or modernisation of the energy system achieved through the investment;

Or. en

Justification

Emission reductions are also highly relevant to take into account in this report.

Amendment 47

Proposal for a directive
Article 1 – paragraph 1 – point 15 a (new)
Directive 2003/87/EC
Article 21 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	(15 a) In Article 21 the following sub-paragraph is added:

"3a.In case of a reasonable suspicion of irregularities or a failure by a Member State to report according to the requirements as set out 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."

Or. en

Justification

In order to ensure an equal level of compliance across the Union, and to ensure a level playing field for industries participating in the EU ETS, the Commission should have the right to conduct an independent investigation where it is suspected that compliance is not ensured by national authorities.