

Compromise Amendment 1 Ambition (Cap, Linear Reduction Factor, Downward Adjustment)

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 793-815 (Article 9(3)); 243-254 (recital 26)

Proposal for a directive

Article 1 – paragraph 1 – point 10

Directive 2003/87/EC

Article 9 – paragraph 3

Text proposed by the Commission

In [the year following entry into force of this amendment], **the Union-wide quantity of allowances shall be decreased by [– million allowances (to be determined depending on year of entry into force)]. In the same year**, the Union-wide quantity of allowances shall be increased by **79** million allowances for maritime transport. Starting in [the year following entry into force of this amendment], the linear factor shall be **4,2** %. The Commission shall publish the Union-wide quantity of allowances within 3 months of [date of entry into force of the amendment to be inserted].;

Amendment

In [the year following entry into force of this amendment], ~~the Union-wide quantity of allowances shall be decreased by [X]. In the same year~~, the Union-wide quantity of allowances shall be increased by **[number corresponding to scope of application to maritime transport activities as set out in Article 3g of Directive 2003/87/EC]** allowances for maritime transport. Starting in [the year following entry into force of this amendment], the linear factor shall be **5,09 % until 2030**. The Commission shall publish the Union-wide quantity of allowances within 3 months of [date of entry into force of the amendment to be inserted].;

Or. en

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) Achieving the Union's emissions reduction target for 2030 will require a reduction in the emissions of the sectors covered by the EU ETS of 61 % compared to 2005. The Union-wide quantity of allowances of the EU ETS needs to be reduced to create the necessary long-term carbon price signal and drive for this degree of decarbonisation. To this end, the linear reduction factor should be increased, also taking into account the inclusion of emissions from maritime transport. The latter should be derived from

Amendment

(26) Achieving the Union's emissions reduction target for 2030 will require a **significant** reduction in the emissions of the sectors covered by the EU ETS of 61 % compared to 2005. The Union-wide quantity of allowances of the EU ETS needs to be reduced **progressively** to create the necessary long-term carbon price signal and drive for this degree of decarbonisation. To this end, the linear reduction factor should be increased, also taking into account the inclusion of emissions from maritime transport. The latter should be

Kommentiert [CLM1]: Sogaard Lidell 243

Kommentiert [CLM2]: Sogaard-Lidell 243

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the emissions from maritime transport activities reported in accordance with Regulation (EU) 2015/757 for 2018 and 2019 in the Union, adjusted, from year 2021, by the linear reduction factor.

derived from the emissions from maritime transport activities reported in accordance with Regulation (EU) 2015/757 for 2018 and 2019 in the Union, adjusted, from year 2021, by the linear reduction factor.

Or. en

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) Bearing in mind that this Directive amends Directive 2003/87/EC in respect of a period of implementation that has already started on 1 January 2021, for reasons of predictability, environmental effectiveness and simplicity, the steeper linear reduction pathway of the EU ETS should be a straight line from 2021 to 2030, such as to achieve emission reductions in the EU ETS of 61 % by 2030, as the appropriate intermediate step towards Union economy-wide climate neutrality in 2050. ***As the increased linear reduction factor can only apply from the year following the entry into force of this Directive, a one-off reduction of the quantity of allowances should reduce the total quantity of allowances so that it is in line with this level of annual reduction having been made from 2021 onwards.***

Amendment

(27) Bearing in mind that this Directive amends Directive 2003/87/EC in respect of a period of implementation that has already started on 1 January 2021, for reasons of predictability, environmental effectiveness and simplicity, the steeper linear reduction pathway of the EU ETS should be a straight line from 2021 to 2030, such as to achieve emission reductions in the EU ETS of 61 % by 2030, as the appropriate intermediate step towards Union economy-wide climate neutrality in 2050 ***at the latest.***

Kommentiert [CLM3]: RE 252

Compromise Amendment 1A MSR ETS 1

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 1536-1542 (Article 1(4) and (4a) MSR); 1543-1551, 1567-1569; 1573 (Article 1(5) MSR); 1553-1566 (Article 1(5a) MSR); 1586 (Art. 3(1) MSR); 607-620; 622-623; 629 (recitals 61-64)

Kommentiert [MD1]: Update following technical meeting on 7 May

TNAC calculation

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point a

Decision (EU) 2015/2814

Article 1 – paragraph 4

Text proposed by the Commission

4. The total number of allowances in circulation in a given year shall be the cumulative number of allowances issued and not put in reserve in the period since 1 January 2008, including the number that were issued pursuant to Article 13(2) of Directive 2003/87/EC as in force until 18 March 2018 in that period and entitlements to use international credits exercised by installations under the EU ETS in respect of emissions up to 31 December of that given year, minus the cumulative tonnes of verified emissions from installations under the EU ETS between 1 January 2008 and 31 December of that same given year, any allowances cancelled in accordance with Article 12(4) of Directive 2003/87/EC.;

4a. As from [the year following the entry into force of this Directive], the calculation of the total number of allowances in circulation shall include the number of allowances issued in respect of aviation and maritime transport since the beginning of that year, and the number of allowances surrendered by aircraft operators and ship operators in respect of emissions for which allowances are the units which can be used in respect of EU ETS obligations.

The allowances cancelled pursuant to Article 3ga of Directive 2003/87/EC shall be considered as issued for the purposes of the

Amendment

4. The total number of allowances in circulation in a given year shall be the cumulative number of allowances issued and not put in reserve in the period since 1 January 2008, including the number that were issued pursuant to Article 13(2) of Directive 2003/87/EC as in force until 18 March 2018 in that period and entitlements to use international credits exercised by installations under the EU ETS in respect of emissions up to 31 December of that given year, minus the cumulative tonnes of verified emissions from installations under the EU ETS between 1 January 2008 and 31 December of that same given year, any allowances cancelled in accordance with Article 12(4) of Directive 2003/87/EC.

4a. As from [the year following the entry into force of this Directive], the calculation of the total number of allowances in circulation shall include the number of allowances issued in respect of aviation and maritime transport since the beginning of that year, and the number of allowances surrendered by aircraft operators and ship operators in respect of emissions for which allowances are the units which can be used in respect of EU ETS obligations.

The allowances cancelled pursuant to Article 3ga of Directive 2003/87/EC shall be considered as issued for the purposes of the

Kommentiert [LC2]: Commission proposal (total number of allowances in circulation includes maritime and aviation allowances).

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calculation of the total number of allowances in circulation.;

calculation of the total number of allowances in circulation.;

Or. en

Intake: upper threshold and intake rate

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point c

Decision (EU) 2015/1814

Article 1 – paragraph 5 – subparagraph 1

Text proposed by the Commission

In any given year, if the total number of allowances in circulation is between **833** million and **1 096** million, a number of allowances equal to the difference between the total number of allowances in circulation, as set out in the most recent publication as referred to in paragraph 4 of this Article, and **833** million, shall be deducted from the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and shall be placed in the reserve over a period of 12 months beginning on 1 September of that year. If the total number of allowances in circulation is above 1 096 million allowances, the number of allowances to be deducted from the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and to be placed in the reserve over a period of 12 months beginning on 1 September of that year shall be equal to 12 % of the total number of allowances in circulation. By way of derogation from the last sentence, until 31 December 2030, the percentage shall be doubled.

Amendment

In any given year, if the total number of allowances in circulation is between **700** million and **921** million, a number of allowances equal to the difference between the total number of allowances in circulation, as set out in the most recent publication as referred to in paragraph 4 of this Article, and **700** million, shall be deducted from the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and shall be placed in the reserve over a period of 12 months beginning on 1 September of that year. If the total number of allowances in circulation is above **921** million allowances, the number of allowances to be deducted from the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and to be placed in the reserve over a period of 12 months beginning on 1 September of that year shall be equal to 12 % of the total number of allowances in circulation. By way of derogation from the last sentence, until 31 December 2030, the percentage shall be doubled. As from 2027-2025, these thresholds referred to in this subparagraph shall be reduced in proportion to the reduction of the Union-wide quantity of allowances referred to in Article 9 of Directive 2003/87 in the same year.

Or. EN/en

Kommentiert [LC3]: to ensure the smooth transition between a 24% intake and the buffer intake with increased ambition (down to 700, from 833), the transition from % intake to buffer intake needs to be at 921 instead of 1000:
- 24% of 922 = 221
- buffer intake of [920-700]=220

Kommentiert [LC4]: Based on RE 833

hat formatiert: Hervorheben

Kommentiert [MD5]: "of Directive 2003/87" inserted

hat formatiert: Hervorheben

Kommentiert [LC6]: SM 25.04:
- based on AM 1548 RE
- drafting as proposed by DG CLIMA in order to address differentiated approach required for upper and lower buffer level, to maintain smooth transition at upper buffer level

Release: lower threshold

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point c a (new)

Decision (EU) 2015/1814

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Article 1 – paragraph 6

Present text

6. In any year, if the total number of allowances in circulation is less than 400 million, 100 million allowances shall be released from the reserve and added to the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC. Where fewer than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.

Amendment

"6. In any year, if the total number of allowances in circulation is less than 400 million, 100 million allowances shall be released from the reserve and added to the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC. Where fewer than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.";

Kommentiert [LC7]: Keep Commission proposal. Broad majority of groups maintains 400 mn lower threshold.

Or. en

Invalidation

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point c

Decision (EU) 2015/1814

Article 1 – paragraph 5a

Text proposed by the Commission

5a. Unless otherwise decided in the first review carried out in accordance with Article 3, from 2023 allowances held in the reserve above 400 million allowances shall no longer be valid.

Amendment

5a. Unless otherwise decided in the first review carried out in accordance with Article 3, from 2023 allowances held in the reserve above 400 million allowances shall no longer be valid.

Kommentiert [LC8]: Maintain Commission proposal to increase ambition level on invalidation

Or. en

Review

Proposal for a directive

Article 2 – paragraph 1 – point 2 a (new)

Decision (EU) 2015/1814

Article 3 – paragraph 1

Present text

The Commission shall monitor the functioning of the reserve in the context of the report provided for in Article 10(5) of Directive 2003/87/EC. That report should consider

Amendment

(2a) in Article 3, paragraph 1 is replaced by the following:

"The Commission, *supported by the European Scientific Advisory Board on Climate Change referred to established in Article 3 of Regulation (EU) 2021/1119*, shall

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relevant effects on competitiveness, in particular in the industrial sector, including in relation to GDP, employment *and* investment indicators. Within three years of the start of the operation of the reserve and at five-year intervals thereafter, the Commission shall, on the basis of an analysis of the orderly functioning of the European carbon market, review the reserve and submit a proposal, where appropriate, to the European Parliament and to the Council. Each review shall pay particular attention to the percentage figure for the determination of the number of allowances to be placed in the reserve pursuant to Article 1(5) of this Decision, as well as the numerical value of the threshold for the total number of allowances in circulation *and* the number of allowances to be released from the reserve pursuant to Article 1(6) or (7) of this Decision. In its review, the Commission shall also look into the impact of the reserve on growth, jobs, the Union's industrial competitiveness and on the risk of carbon leakage.

monitor the functioning of the reserve in the context of the report provided for in Article 10(5) of Directive 2003/87/EC. That report should consider relevant effects on *achieving the climate-neutrality objective and the Union climate targets/goals as laid down set out in the Regulation (EU) 2021/1119 and ~~on~~ meeting the obligations of the Union and its Members States under the Paris Agreement*, competitiveness, in particular in the industrial sector, including in relation to GDP, employment, investment indicators *and the objective of delivering a just transition that leaves no one behind*. Within three years of the start of the operation of the reserve and at five-year intervals thereafter, the Commission shall, on the basis of an analysis of the orderly functioning of the European carbon market, review the reserve and submit a proposal, where appropriate, to the European Parliament and to the Council. Each review shall pay particular attention to the percentage figure for the determination of the number of allowances to be placed in the reserve pursuant to Article 1(5) of this Decision, as well as the numerical value of the threshold for the total number of allowances in circulation, the number of allowances to be released from the reserve pursuant to Article 1(6) or (7) of this Decision *and other relevant development options ~~of~~ for the market stability reserve*. In its review, the Commission *and the European Scientific Advisory Board on Climate Change* shall also look into the impact of the reserve on growth, jobs, the Union's industrial competitiveness and on the risk of carbon leakage.”

Or. en

Recitals

**Proposal for a directive
Recital 61**

Text proposed by the Commission

Amendment

(61) A well-functioning, reformed EU ETS comprising an instrument to stabilise the market is a key means for the Union to reach

(61) A well-functioning, reformed EU ETS comprising an instrument to stabilise the market is a key means for the Union to reach

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- Kommentiert [MD9]: To be more precise, as in CA 30.
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- hat formatiert: Hervorheben
- Kommentiert [OP10]: linked to 'effects on'?
- hat formatiert: Hervorheben

its agreed target for 2030 and the commitments under the Paris Agreement. The Market Stability Reserve seeks to address the imbalance between supply and demand of allowances in the market. Article 3 of Decision (EU) 2015/1814 provides that the reserve is to be reviewed three years after it becomes operational, paying particular attention to the percentage figure for the determination of the number of allowances to be placed in the Market Stability Reserve, the threshold for the total number of allowances in circulation (TNAC) that determines the intake of allowances, and the number of allowances to be released from the reserve.

its agreed target for 2030, **the carbon price climate-neutrality objective by 2050 at the latest, and fulfil the aim of achieving negative emissions thereafter laid down in Article 2(1) of Regulation (EU) 2021/1119** and the commitments under the Paris Agreement. The Market Stability Reserve seeks to address the imbalance between supply and demand of allowances in the market. Article 3 of Decision (EU) 2015/1814 provides that the reserve is to be reviewed three years after it becomes operational, paying particular attention to the percentage figure for the determination of the number of allowances to be placed in the Market Stability Reserve, the threshold for the total number of allowances in circulation (TNAC) that determines the intake of allowances, and the number of allowances to be released from the reserve.

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Or. en

Proposal for a directive Recital 62

Text proposed by the Commission

(62) Considering the need to deliver a stronger investment signal to reduce emissions in a cost-efficient manner and with a view to strengthening the EU ETS, Decision (EU) 2015/1814 should be amended so as to increase the percentage rate for determining the number of allowances to be placed each year in the Market Stability Reserve. In addition, for lower levels of the TNAC, the intake should be equal to the difference between the TNAC and the threshold that determines the intake of allowances. This would prevent the considerable uncertainty in the auction volumes that results when the TNAC is close to the threshold, and at the same time ensure that the surplus reaches the volume bandwidth within which the carbon market is deemed to operate in a balanced manner.

Amendment

(62) Considering the need to deliver a stronger investment signal to reduce emissions in a cost-efficient manner and with a view to strengthening the EU ETS, Decision (EU) 2015/1814 should be amended so as to increase the percentage rate for determining the number of allowances to be placed each year in the Market Stability Reserve. In addition, for lower levels of the TNAC, the intake should be equal to the difference between the TNAC and the threshold that determines the intake of allowances. This would prevent the considerable uncertainty in the auction volumes that results when the TNAC is close to the threshold, and at the same time ensure that the surplus reaches the volume bandwidth within which the carbon market is deemed to operate in a balanced manner. **Such adjustment should be made without resulting in any reduced ambition compared to the current Market Stability Reserve.**

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hat formatiert: Hervorheben

Or. en

Proposal for a directive
Recital 63

Text proposed by the Commission

(63) Furthermore, in order to ensure that the level of allowances that remains in the Market Stability Reserve after the invalidation is predictable, the invalidation of allowances in the reserve should no longer depend on the auction volumes of the previous year. The number of allowances in the reserve should, therefore, be fixed at a level of 400 million allowances, which corresponds to the lower threshold for the value of the TNAC.

Amendment

(63) Furthermore, in order to ensure that the level of allowances that remains in the Market Stability Reserve after the invalidation is predictable, the invalidation of allowances in the reserve should no longer depend on the auction volumes of the previous year. The number of allowances in the reserve should, therefore, be fixed at a level of 400 million allowances, which corresponds to the lower threshold for the value of the TNAC.

Or. en

Proposal for a directive
Recital 64

Text proposed by the Commission

(64) The analysis of the impact assessment accompanying the proposal for this Directive has also shown that net demand from aviation should be included in the total number of allowances in circulation. In addition, since aviation allowances can be used in the same way as general allowances, including aviation in the reserve would make it a more accurate, and thus a better tool to ensure the stability of the market. The calculation of the total number of allowances in circulation should include aviation emissions and allowances issued in respect of aviation as of the year following the entry into force of this Directive.

Amendment

(64) The analysis of the impact assessment accompanying the proposal for this Directive has also shown that net demand from aviation should be included in the total number of allowances in circulation. In addition, since aviation allowances can be used in the same way as general allowances, including aviation in the reserve would make it a more accurate, and thus a better tool to ensure the stability of the market. The calculation of the total number of allowances in circulation should include aviation emissions and allowances issued in respect of aviation as of the year following the entry into force of this Directive.

Or. en

Compromise Amendment 2

CCU/CCS (Article 3(1)(b); Article 12(3)(a) ; Article 12(3)(b); Article 14(1)(1); Article 12(3)(b a new); Recital 13; Recital 40)

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments

2, 81, 648-657 (Article 3(1)(1); 1325 (Article 12(3)(a)); 77-79, 1328-1350, 169-183, 386-400 (Article 12(3)(b), recital 13, recital 40); 3, 80, 789, 1403 (Article 12(3)(b a new))

Definition of ‘emissions’ (Article 3(1)(b))

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point a

Directive 2003/87/EC

Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) ‘emissions’ means the release of greenhouse gases from sources in an installation or the release from an aircraft performing an aviation activity listed in Annex I or from ships performing a maritime transport activity listed in Annex I of the gases specified in respect of that activity, or the release of greenhouse gases corresponding to the activity referred to in Annex III;

(b) ‘emissions’ means the release of greenhouse gases from sources in an installation or the release from an aircraft performing an aviation activity listed in Annex I or from ships performing a maritime transport activity listed in Annex I of the gases specified in respect of that activity, or the release of greenhouse gases corresponding to the activity referred to in Annex III;

Or. en

Kommentiert [LC1]: EPP, S&D, RE, Greens, ECR, ID support

CCS (Article 12(3)(a))

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point d a (new)

Directive 2003/87/EC

Article 12 – paragraph 3 a

Present text

Amendment

3a. An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide .

3a. An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide .

Or. en

CCU (Article 12(3)(b))

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point e

Directive 2003/87/EC

Article 12 – paragraph 3 b – subparagraph 1

Text proposed by the Commission

An obligation to surrender allowances shall not arise in respect of emissions of greenhouse gases which are considered to have been captured and utilised to become permanently chemically bound in a product so that they do not enter the atmosphere under normal use.

Amendment

An obligation to surrender allowances shall not arise in respect of emissions of greenhouse gases which are considered to have been captured and utilised to become permanently chemically bound in a product so that they do not enter the atmosphere under normal use **and disposal, and in respect of greenhouse gases that are captured and used to produce recycled carbon fuels and renewable liquid and gaseous fuels of non-biological origin.**

~~The number of allowances required to be surrendered in respect of such emissions shall be proportionally reduced in respect of emissions of greenhouse gases which are considered to have been captured and utilised to become chemically bound in a product in a way other than that referred to in the first subparagraph, taking into account a life-cycle assessment of the product.~~

The Commission shall adopt **implementing** acts concerning the requirements to consider that greenhouse gases have become permanently chemically bound in a product so that they do not enter the atmosphere under normal use.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

The Commission shall adopt **delegated acts in accordance with Article 23 to supplement this Directive by setting out** the requirements to consider that greenhouse gases have become permanently chemically bound in a product so that they do not enter the atmosphere under normal use **and disposal as referred to in the first subparagraph of this paragraph, as well as by setting out a transparent, comparable and reliable methodology for the proportional reduction of the extent of the obligation to surrender allowances and for the life-cycle assessment of the product referred to in the second subparagraph of this paragraph. The methodology for the life-cycle assessment of the product shall take into account the doubledual role of greenhouse gases as emissions and as feed stock, including the emissions captured in the**

Kommentiert [CLM2]: As a compromise, Rapporteur can agree to delete proposal for accounting of RFNBOs at point of release and revert to Commission proposal here.

Kommentiert [CLM3]: See review clause below

Kommentiert [LC4]: Further information on life-cycle assessment approach has been shared via email.

Kommentiert [CLM5]: See review clause below

manufacture of the product, the emissions produced during as part of the capture and utilisation process, the emissions utilised in the manufacture of the product compared to a similar product that does not result from the utilisation of recycled carbon, and the number of years the carbon captured from greenhouse gas emissions is bound in the product.

Kommentiert [LC6]: DLA redrafting

Or. <Original>(EN)en</Original>

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point e a (new)

Directive 2003/87/EC

Article 12 – paragraph 3 b a (new)</Article2>

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Text proposed by the Commission

Amendment

*(ea) the following paragraph is inserted:
“3ba. Innovative national policies to ensure and incentivise cooperation between sectors to assure the most optimal cross-sectoral uptake and ratio between CCU and CCS shall be stimulated if approved by the national emission authority.”*

Or. <Original>(EN)en</Original>

Kommentiert [LC7]: Moved to recital (see below)

Proposal for a directive

Article 1 – paragraph 1 – point 16

Directive 2003/87/EC

Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Those implementing acts shall apply the sustainability and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001 of the European Parliament and of the Council(*), with any necessary adjustments for application under this Directive, for this biomass to be zero-rated. They shall specify how to account for storage of emissions from a mix of zero-rated sources and sources that are not zero-rated. They shall also specify how to account for emissions from renewable fuels of non-biological origin and recycled carbon fuels, ensuring that these emissions are accounted for and that double counting is avoided.

Amendment

Those implementing delegated acts shall apply the sustainability and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001 of the European Parliament and of the Council(*), with any necessary adjustments for application under this Directive, for this biomass to be zero-rated. They shall specify how to account for storage of emissions from a mix of zero-rated sources and sources that are not zero-rated. They shall also specify how to account for emissions from renewable fuels of non-biological origin and recycled carbon fuels, ensuring that these emissions are accounted for and that double counting is avoided.

Kommentiert [CLM8]: SM 2022.05.02

Or. <Original>{EN}en</Original>

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point e b (new)

Directive 2003/87/EC

Article 12 – paragraph 3b b (new)

Text proposed by the Commission

Amendment

(eb) the following paragraph is inserted:

"3bb. By 31 December 2029, the Commission shall present a report to the European Parliament and to the Council in which it shall examine whether all greenhouse gas emissions from the different activities covered by under the scope of this Directive are effectively accounted for, at which stages of the process these greenhouse gas emissions are accounted for, and whether double accounting has been avoided, all economy-wide greenhouse gas emissions, in particular taking into account the downstream stages, including disposal and waste incineration, and export, -and assess the comparative climate and economic benefits of accounting to the emissions for each activity at different stages of the process from waste incineration installations, are subject to carbon pricing mechanisms. The Commission shall may, where appropriate, accompany that report with a legislative proposal to amend this Directive so that the obligation to surrender allowances to ensure that all emissions are accounted for at the most effective stage and that double counting is avoided only arises at the point of release into the atmosphere in respect of emissions of greenhouse gases which are considered to have been captured and utilised."

Or. <Original>{EN}en</Original>

Kommentiert [LC9]: Redrafting following TM 11.04:

- deletion of review to move towards accounting at point of release by 2030 (possible gaps include exports, extra-EU aviation, ...)
- redraft focusing instead on thorough assessment to map accounting situation: which activities are being accounted at what stage, are all emissions effectively accounted, is double accounting avoided, what makes most sense for each activity?
- for example, with carbon from CCU accounted at point of capture, and waste incineration also included, there may be double accounting in case products based on recycled carbon end up in waste disposal.

hat formatiert: Hervorheben

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hat formatiert: Hervorheben

Kommentiert [OP10]: as is the case with 'waste incineration', I assume we mean the 'process' of exportation

hat formatiert: Hervorheben

Kommentiert [MD11]: We would normally have "shall, where appropriate," since the Commission already has the right of initiative under the Treaty (so an empowerment is not necessary).

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point e b (new)

Directive 2003/87/EC

Article 12 – paragraph 3b c (new)

Text proposed by the Commission

Amendment

hat formatiert: Englisch (Vereinigtes Königreich)

Kommentiert [CLM12]: SM 2022.05.02: life-cycle assessment approach moved into review clause

the following paragraph is inserted:

"3bc. By 1 January 2025, the Commission shall present a report to the European Parliament and to the Council in which it shall examine a transparent, comparable and reliable methodology for how to account the proportional reduction of the extent of the obligation to surrender allowances in respect of emissions of greenhouse gases which are considered to have been captured and utilised to become chemically bound in a product in a way other than that referred to in ~~the first~~ subparagraph 3b based on a life-cycle assessment of the product. The methodology for the life-cycle assessment of the product shall take into account the dual role of greenhouse gases as emissions and as feedstock, including the emissions captured in the manufacture of the product, the emissions produced during as part of the capture and utilisation process, the emissions utilised in the manufacture of the product compared to a similar product that does not result from the utilisation of recycled carbon, and the number of years the carbon captured from greenhouse gas emissions is bound in the product. The Commission shall, where appropriate, accompany that report with a legislative proposal to amend this Directive to include such a life-cycle assessment approach.

hat formatiert: Durchgestrichen, Hervorheben

hat formatiert: Durchgestrichen, Hervorheben

hat formatiert: Hervorheben

hat formatiert: Schriftart: Fett, Kursiv

Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) All greenhouse gas emissions captured and transferred for utilisation through CCU processes ~~that are not permanently chemically bound in a product such that they do not enter the atmosphere under normal use and disposal should ideally be accounted for~~ at the point of release into the atmosphere. However, in the short term, in the absence of all stages of the process economy-wide greenhouse gas

Kommentiert [CLM13]: Redrafted in alignment with review clause above

hat formatiert: Hervorheben

emissions, in particular emissions from waste incineration installations, being covered by carbon pricing mechanisms, reliance on calculations accounting for emissions at the point of their release into the atmosphere would result in emissions being undercounted. Therefore, In order to regulate the capture of carbon in a way that reduces net emissions, ensures that all emissions are accounted for and that double counting is avoided, while generating economic incentives, for a temporary period, the Commission should assess how to account context of the obligation to surrender allowances in respect of emissions of greenhouse gases which are considered to have been captured and utilised to become chemically bound in a product should be proportionally reduced taking into account based on a life-cycle assessment of the product, for example where the final product substitutes a product with a higher carbon intensity not utilising recycled carbon these are used for the manufacture of a product or where this such proportional reduction contributes to innovative national policies approved by the competent authority in the Member State concerned to ensure and incentivise cooperation between sectors, and propose a legislative proposal to present a transparent, comparable and reliable methodology where appropriate. By 31 December 2029, the Commission should present a report to the European Parliament and to the Council in which it examines the progress made towards the coverage of economy-wide greenhouse gas emissions by carbon pricing mechanisms. If sufficient progress has been made, in particular on the inclusion of greenhouse gas emissions from waste incineration installations, the Commission should, where appropriate, present a legislative proposal to amend this Directive so that the obligation to surrender allowances in respect of emissions of greenhouse gases which are considered to have been captured and utilised arises only at the point of release into the atmosphere.

Or. <Original>(EN)en</Original>

hat formatiert: Hervorheben

Kommentiert [OP14]: intensity in what sense? is this the same idea as emissions intensity?

in the basic act, it seems we refer to 'emission intensity', not 'carbon intensity'

Kommentiert [OP15]: it would be preferable to avoid 'this'

Kommentiert [OP16]: policies approved??

Normally, it is not for competent authorities to approve policies; they would be responsible for implementation and enforcement of policies decided at a political level.

Kommentiert [CLM17]: Moved from article into recital (see above)

**Proposal for a directive
Recital 13**

Text proposed by the Commission

(13) Greenhouse gases that are not directly released into the atmosphere should be considered emissions under the EU ETS and allowances should be surrendered for those emissions unless they are stored in a storage site in accordance with Directive 2009/31/EC of the European Parliament and of the Council⁴⁶, or they are permanently chemically bound in a product so that they do not enter the atmosphere under normal use. The Commission should be empowered to adopt **implementing** acts specifying the conditions where greenhouse gases are to be considered as permanently chemically bound in a product so that they do not enter the atmosphere under normal use, including obtaining a carbon removal certificate, where appropriate, in view of regulatory developments with regard to the certification of carbon removals.

⁴⁶ Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).

Amendment

(13) Greenhouse gases that are not directly released into the atmosphere should be considered emissions under the EU ETS and allowances should be surrendered for those emissions unless they are stored in a storage site in accordance with Directive 2009/31/EC of the European Parliament and of the Council⁴⁶, or they are permanently chemically bound in a product so that they do not enter the atmosphere under normal use **and disposal**, **or they are captured and used to produce recycled carbon fuels and renewable liquid and gaseous fuels of non-biological origin**. The Commission should be empowered to adopt **delegated** acts specifying the conditions where greenhouse gases are to be considered as permanently chemically bound in a product so that they do not enter the atmosphere under normal use **and disposal**, including obtaining a carbon removal certificate, where appropriate, in view of regulatory developments with regard to the certification of carbon removals. **The Commission should be empowered to adopt delegated acts specifying the framework conditions under which greenhouse gases transferred for further use can may be accounted for at the point of release into the atmosphere, provided on condition that all emissions are accounted for and that double counting is avoided.**

⁴⁶ Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).

Or. <Original>{EN}en</Original>

Kommentiert [CLM18]: As a compromise, Rapporteur can agree to delete accounting of RFNBOs at point of release and revert to Commission proposal with inclusion of ITRE CA

Kommentiert [CLM19]: ITRE

Kommentiert [CLM20]: Proposal to add additional safeguards to ITRE position

**Proposal for a directive
Recital 40**

Text proposed by the Commission

Amendment

(40) Renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels can be important to reduce greenhouse gas emissions in sectors that are hard to decarbonise. Where recycled carbon fuels and renewable liquid and gaseous fuels of non-biological origin are produced from captured carbon dioxide under an activity covered by this Directive, the emissions should be accounted *under that activity*. To ensure that renewable fuels of non-biological origin and recycled carbon fuels contribute to greenhouse gas emission reductions and to avoid double counting for fuels that do so, it is appropriate to explicitly extend the empowerment in Article 14(1) to the adoption by the Commission of implementing acts laying down the necessary adjustments for how to account for the eventual release of carbon dioxide and how to avoid double counting to ensure appropriate incentives are in place, taking also into account the treatment of these fuels under Directive (EU) 2018/2001.

(40) Renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels can be important to reduce greenhouse gas emissions in sectors that are hard to decarbonise. ~~Where recycled carbon fuels and renewable liquid and gaseous fuels of non-biological origin are produced from captured carbon dioxide under an activity covered by this Directive, the emissions should be accounted~~ *where the CO2 is emitted into the atmosphere*. To ensure that renewable fuels of non-biological origin and recycled carbon fuels contribute to greenhouse gas emission reductions and to avoid double counting for fuels that do so, it is appropriate to explicitly extend the empowerment in Article 14(1) to the adoption by the Commission of ~~implementing~~ *delegated* acts laying down the necessary adjustments for how ~~and where at which stage~~ to account for the eventual release of carbon dioxide ~~and how to avoid double counting, in a way that ensures that all emissions are accounted for, including where such fuels are produced from captured carbon dioxide outside the Union and are used under an activity covered by this Directive, while avoiding double accounting and ensuring~~ *to ensure* appropriate incentives are in place ~~for capturing the CO2 emissions~~, taking also into account the treatment of these fuels under Directive (EU) 2018/2001.

Or. en

Negative emissions (Article 12(3)(b a new))

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point e a (new)

Directive 2003/87/EC

Article 12 – paragraph 3b a (new)

Text proposed by the Commission

Amendment

(ea) the following paragraph is inserted:

Kommentiert [CLM21]: ITRE

Kommentiert [MD22]: delegated, cf. CA 3?

"implementing" is already in COM proposal, so it is not an amendment.

Kommentiert [OP23]: unclear what is outside the Union

change the word order: carbon dioxide captured outside the Union?

or 'produced outside the Union from captured carbon dioxide'?

Kommentiert [CLM24]: ITRE

Kommentiert [LC25]: RFNBOs:

The problem:

- initial compromise proposal to account at point of release (e.g. airline): risk of gaps when RFNBOs produced in the Union and exported/used outside the Union (e.g. extra-EU flights)
- Commission proposal to account at point of capture (e.g. steelplant): also risk of gaps because the carbon is not accounted for where the fuel is produced outside the Union (which is likely due to better wind and solar conditions required for the renewable energy part of the RFNBO production process) and released in an activity under ETS/ETS Aviation (e.g. intra-EU flight). This would even incentivise production outside the Union to avoid carbon costs.

Proposed compromise solution in the text: require Commission to set up an accounting that effectively covers all RFNBO emissions, also when imported from outside the Union, while avoiding double accounting. DG CLIMA: "To ensure emissions from RFNBOs that contain fossil carbon are accounted it is best done in the EU ETS, at the point of production ('upstream'). This enables users/combustors of the fuels to consider their zero emissions (e.g. airplanes and ships), as for biofuels. Accounting at the point of release risks creating the gaps you mention. However, as you note, if all RFNBOs were only accounted at the point of capture, carbon is not accounted for where the fuel is produced outside the EU. To address this, for proper accounting for imported RFNBOs containing fossil carbon, the Commission would aim to account for carbon emissions at point of combustion (i.e. by the user) unless the emissions have already been properly accounted for upstream."

Context:

- ENVI FuelEU Aviation compromise on RFNBO (see 'synthetic fuel') targets:
- not limited to direct air capture (S&D Rapporteur, EPP, RE, ECR, ID, LEFT opposed limitation)
- 0.03% by 2025
- 2.5% by 2030
- 10% by 2035

ETS aviation:

- EP Legal Service confirms that decision is to be taken in ETS negotiations, will trump ETS aviation text
- ETS aviation majority agrees on free allocation for sustainable aviation fuel

... [1]

Formatierte Tabelle

"3ba. ~~From~~ By 1 January 2025, the Commission shall present a report to the European Parliament and to the Council in which it shall examine how negative emissions installations shall receive allowances in respect of resulting from greenhouse gases that are permanently removed from the atmosphere and safely and permanently stored shall be accounted for and how these negative emissions can be covered by emissions trading, including and in which it shall propose a clear scope and strict criteria and safeguards to ensure that such removals are not merely offsetting necessary emissions reductions in line accordance with Union climate targets as laid down in Regulation (EU) 2021/1119. That report shall, where appropriate, be accompanied, where appropriate, by a legislative proposal to cover negative emissions within the scope of this Directive, as a result of bio-energy with carbon capture and storage (BECCS) or greenhouse gases that are captured from the atmosphere through direct air capture and geologically stored or utilised to become permanently chemically bound in a product so that they do not enter the atmosphere under normal use.

hat formatiert: Hervorheben

Kommentiert [CLM26]: SM 2022.05.02

hat formatiert: Hervorheben

Kommentiert [CLM27]: SM 2022.05.02

Kommentiert [CLM28]: TM 2022.05.03: redraft supported by EPP, S&D, RE, ECR

In this respect, ~~[by 31 December 2023]~~, the Commission shall present a delegated act, accompanied by a report to the European Parliament and the Council, setting out how negative emissions could be included in emissions trading in the Union, including a clear scope and strict criteria and safeguards to ensure that such removals are not merely offsetting necessary emissions reductions but are genuine and permanent.

Or. <Original>{EN}en</Original>

Proposal for a directive
Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b) In line with Regulation (EU) 2021/1119, priority should be given to direct emissions reductions, which will have to be complemented by increased CO₂ removals in order to achieve climate neutrality. In the

Kommentiert [CLM29]: RE 636 + draft report

medium-term, ~~these~~ CO₂ removals could also already help to increase the ambition above the Union 2030 climate targets as laid down in Regulation (EU) 2021/1119. Therefore, a future revision of the EU ETS and of the overall EU climate policy framework the Commission should also examine ~~assess~~ how negative emissions resulting from ~~in respect of~~ greenhouse gases that are permanently removed from the atmosphere and safely and permanently stored, for example through direct air capture, can be accounted for and ~~covered~~ ~~included~~ ~~incentivised~~ ~~in~~ ~~by~~ ~~included~~ ~~in~~ emissions trading, including by proposing a clear scope and strict criteria and safeguards to ensure that such removals ~~are~~ do not offsetting necessary emissions reductions but are genuine and permanent. Installations should receive allowances in respect of greenhouse gases that are permanently removed from the atmosphere as a result of bio-energy with carbon capture and storage (BECCS) or of greenhouse gases that are captured from the atmosphere through direct air capture and geologically stored or utilised to become permanently chemically bound in a product so that they do not enter the atmosphere under normal use. Installations should be able to sell those allowances or use those allowances to reduce the extent of their remaining surrender obligations.

Or. <Original>{EN}en</Original></Amend>

hat formatiert: Tiefgestellt, Hervorheben

Kommentiert [MD30]: Alignment article

hat formatiert: Hervorheben

hat formatiert: Hervorheben

hat formatiert: Hervorheben

hat formatiert: Hervorheben

hat formatiert: Hervorheben

Kommentiert [CLM31]: RE 636 + draft report

RFNBOs:

The problem:

- initial compromise proposal to account at point of release (e.g. airline): risk of gaps when RFNBOs produced in the Union and exported/used outside the Union (e.g. extra-EU flights)
- Commission proposal to account at point of capture (e.g. steelplant): also risk of gaps because the carbon is not accounted for where the fuel is produced outside the Union (which is likely due to better wind and solar conditions required for the renewable energy part of the RFNBO production process) and released in an activity under ETS/ETS Aviation (e.g. intra-EU flight). This would even incentivise production outside the Union to avoid carbon costs.

Proposed compromise solution in the text: require Commission to set up an accounting that effectively covers all RFNBO emissions, also when imported from outside the Union, while avoiding double accounting. DG CLIMA: "To ensure emissions from RFNBOs that contain fossil carbon are accounted it is best done in the EU ETS, at the point of production ('upstream'). This enables users/combustors of the fuels to consider them zero emissions (e.g. airplanes and ships), as for biofuels. Accounting at the point of release risks creating the gaps you mention. However, as you note, if all RFNBOs were only accounted at the point of capture, carbon is not accounted for where the fuel is produced outside the EU. To address this, for proper accounting for imported RFNBOs containing fossil carbon, the Commission would aim to account for carbon emissions at point of combustion (i.e. by the user) *unless* the emissions have already been properly accounted for upstream."

Context:

ENVI FuelEUAviation compromise on RFNBO (see 'synthetic fuel') targets:

- not limited to direct air capture (S&D Rapporteur, EPP, RE, ECR, ID, LEFT opposed limitation)
- 0.03% by 2025
- 2.5% by 2030
- 10% by 2035

ETS aviation:

- EP Legal Service confirms that decision is to be taken in ETS negotiations, will trump ETS aviation text
- ETS aviation majority agrees on free allocation for sustainable aviation fuel

Current market situation:

- no availability of RFNBO supply
- price range 3000EUR/tonne for RFNBO; 1400EUR for 'normal' biofuel; 800EUR for kerosine (incl. ETS price)

Compromise Amendment 2A SCOPE
EPP, S&D, RE, Greens, ID, ECR, The Left
Compromise amendment replacing Amendments 641-647 (Article 2(1))

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2003/87/EC

Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to the activities listed in Annexes I and III, and to the greenhouse gases listed in Annex II. Where an installation that is included in the scope of the EU ETS due to the operation of combustion units with a total rated thermal input exceeding 20 MW changes its production processes to reduce its greenhouse gas emissions and no longer meets that threshold, it *shall* remain in the scope of the EU ETS *until the end of the relevant five year period referred to in Article 11(1), second subparagraph*, following the change to its production process.

Amendment

1. This Directive shall apply to the activities listed in Annexes I and III, and to the greenhouse gases listed in Annex II. Where an installation that is included in the scope of the EU ETS due to the operation of combustion units with a total rated thermal input exceeding 20 MW changes its production processes to reduce its greenhouse gas emissions and no longer meets that threshold *or no longer emits greenhouse gases*, *the operator of that installation is to remain in the scope of the EU ETS until the end of the next five year period referred to in Article 11(1), second subparagraph*, following the change to its production process.

By 31 December 2029, the Commission shall assess, and submit a report to the European Parliament and to the Council on, the inclusion of installations with a total rated thermal input below 20 MW in the scope of the EU ETS in the next period. That report shall be accompanied, where appropriate, by a legislative proposal to include such installations.

hat formatiert: Französisch (Belgien)

hat formatiert: Hervorheben

Kommentiert [LC1]: DLA: an installation cannot decide anything, it is the operator

Kommentiert [LC2]: TM 11.04: compromise on 'next 5 year period' (EPP, S&D, ECR, ID)

Kommentiert [CLM3]: SM 05.02.2022

hat formatiert: Hervorheben

Or. en

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EN

United in diversity

EN

Compromise Amendment 3

Biomass (Article 14(1); Article 27a(1); Annex I, IV, IV(A), IV(B); Recital 39 EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments

AM 1080, 1081, 1356 - 1362, 1382, 1639- 1648, 1666, 1667, 1686-1693, 382 - 384, 403 - 411

Kommentiert [MD1]: DLA comments in blue and green.

Summary of compromise proposal:

- zero-rating for biomass compliant with RED criteria (Commission proposal)
- reinclude biomass installations using between 95% and 100% biomass (revert to current Directive instead of Commission proposal)

Zero-Rating when compliant with RED II criteria (Article 14(1))

AM 1356 - 1362 Art 14(1)

1666, 1667 Annex I

1686 - 1693 Annex IV Part A & B

382 - 384

not covered : 1694 - ECR Zalewska Annex

Proposal for a directive

Article 1 – paragraph 1 – point 16

Directive 2003/87/EC

Article 14 – paragraph 1

Kommentiert [KK2]: Modig 1357

Text proposed by the Commission

Amendment

(16) in Article 14(1), *first subparagraph, the following sentence is added:*

1. The Commission shall adopt **implementing** acts concerning the detailed arrangements for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I, for the monitoring and reporting of tonne-kilometre data for the purpose of an application under Article 3e or 3f, which shall be based on the principles for monitoring and reporting set out in Annex IV and the requirements set out in paragraph 2 of this Article. Those **implementing** acts shall also specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.

(16) in Article 14, *paragraph 1 is replaced by the following:*

"1. The Commission shall adopt **delegated** acts **in accordance with Article 23 to supplement this Directive** concerning the detailed arrangements for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I, for the monitoring and reporting of tonne-kilometre data for the purpose of an application under Article 3e or 3f, which shall be based on the principles for monitoring and reporting set out in Annex IV and the requirements set out in paragraph 2 of this Article. Those **delegated** acts shall also specify the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas **and be accompanied by a detailed impact assessment, taking into account the latest**

Kommentiert [MD3]: standard wording on delegated acts.

available science

Kommentiert [CLM4]: SM 02.05.2022

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02003L0087-20210101&qid=1641400487702>)

Proposal for a directive

Article 1 – paragraph 1 – point 16

Directive 2003/87/EC

Article 14 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Those implementing acts shall apply the sustainability and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001 of the European Parliament and of the Council(*), with any necessary adjustments for application under this Directive, for this biomass to be zero-rated. They shall specify how to account for storage of emissions from a mix of zero-rated sources and sources that are not zero-rated. They shall also specify how to account for emissions from renewable fuels of non-biological origin and recycled carbon fuels, ensuring that these emissions are accounted for and that double counting is avoided.”;

Amendment

Those delegated acts shall apply the sustainability and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001 of the European Parliament and of the Council(*), with any necessary adjustments for application under this Directive, for this biomass to be zero-rated. They shall specify how to account for storage of emissions from a mix of zero-rated sources and sources that are not zero-rated. They shall also specify how to account for emissions from renewable fuels of non-biological origin and recycled carbon fuels, ensuring that these emissions are accounted for and that double counting is avoided.

For maritime transport, the delegated acts shall specify how to account for the well-to-tank emissions of renewable and low-carbon fuels.;

hat formatiert: Französisch (Frankreich)

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Kommentiert [KK5]: Modig 1357

Kommentiert [CLM6]: SM 02.05.2022: deleted

Or. en

Proposal for a directive

Annex I – point 3 – point a – point i

Directive 2003/87/EC

Annex IV – Part A – Calculation – subparagraph 4

Text proposed by the Commission

The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission saving criteria for

Amendment

“The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission saving criteria for

the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, as set out in the **implementing** acts referred to in Article 14, shall be zero.;

the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, as set out in the **delegated** acts referred to in Article 14, shall be zero.”;

Kommentiert [KK7]: Modig 1690

Or. fr

Proposal for a directive

Annex I – point 3 – point b

Directive 2003/87/EC

Annex IV – Part B – Monitoring – subparagraph 4

Kommentiert [KK8]: Modig 1693
makes fall Bloss 1692 for IPCC criteria

Text proposed by the Commission

Amendment

The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, as set out in the **implementing** acts referred to in Article 14, shall be zero.;

The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, as set out in the **delegated** acts referred to in Article 14, shall be zero.;

Or. en

Proposal for a directive

Annex I – paragraph 1 – point c – point vii

Directive 2003/87/EC

Annex I – table – last row – column 2

hat formatiert: Französisch (Frankreich)
hat formatiert: Französisch (Frankreich)
hat formatiert: Französisch (Frankreich)
hat formatiert: Französisch (Frankreich)

Text proposed by the Commission

Amendment

Greenhouse gases covered by Regulation (EU) 2015/757

Greenhouse gases covered by Regulation (EU) 2015/757

Or. en

Proposal for a directive

Recital 39

Text proposed by the Commission

Amendment

(39) Commission Implementing Regulation (EU) 2018/2066⁵⁴ lays down rules on the monitoring of emissions from biomass which are consistent with the rules on the use of biomass laid down in the Union legislation on renewable energy. As the legislation becomes more elaborate on

(39) Commission Implementing Regulation (EU) 2018/2066⁵⁴ lays down rules on the monitoring of emissions from biomass which are consistent with the rules on the use of biomass laid down in the Union legislation on renewable energy. As the legislation becomes more elaborate on

the sustainability criteria for biomass with the latest rules established in Directive (EU) 2018/2001 of the European Parliament and of the Council⁵⁵, the conferral of implementing powers in Article 14(1) of Directive 2003/87/EC should be explicitly extended to the adoption of the necessary adjustments for the application in the EU ETS of sustainability criteria for biomass, including biofuels, bioliquids and biomass fuels. In addition, the Commission should be empowered to adopt *implementing* acts to specify how to account for the storage of emissions from mixes of zero-rated biomass and biomass that is not from zero-rated sources.

⁵⁴ Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

⁵⁵ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

the sustainability criteria for biomass with the latest rules established in Directive (EU) 2018/2001 of the European Parliament and of the Council⁵⁵, the conferral of implementing powers in Article 14(1) of Directive 2003/87/EC should be explicitly extended to the adoption of the necessary adjustments for the application in the EU ETS of sustainability criteria for biomass, including biofuels, bioliquids and biomass fuels. In addition, the Commission should be empowered to adopt *delegated* acts to specify how to account for the storage of emissions from mixes of zero-rated biomass and biomass that is not from zero-rated sources. *For maritime transport, the delegated acts should shall ensure there is consistency with Regulation (EU) .../... [FuelEU Maritime] by taking into account the well-to-wake performance of renewable and low-carbon fuels.*

⁵⁴ Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

⁵⁵ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

Or. en

Kommentiert [KK9]: Modig 384

Kommentiert [CLM10]: SM 02.05.2022: deleted

Kommentiert [KK11]: Weiss, Liese 383

Scope of biomass using installations covered (Annex I, IV)
AM 1639- 1648
1080, 1081
403-411

Proposal for a directive
Annex I – paragraph 1 – point a
Directive 2003/87/EC
Annex I – point 1

Text proposed by the Commission

1. Installations or parts of installations used for research, development and testing of new products and processes, and installations *where emissions from the combustion of biomass that complies with the criteria set out pursuant to Article 14 contribute to more than 95 % of the total greenhouse gas emissions* are not covered by this Directive.

Amendment

1. Installations or parts of installations used for research, development and testing of new products and processes, and installations **exclusively using** biomass are not covered by this Directive.

hat formatiert: Englisch (Vereinigtes Königreich)

hat formatiert: Englisch (Vereinigtes Königreich)

hat formatiert: Englisch (Vereinigtes Königreich)

hat formatiert: Englisch (Vereinigtes Königreich)

Kommentiert [LC12]: Return to current situation, reflecting compromise between Guteland, Wiesner, Polfjard, ITRE, ECR, ID AMs

Or. en

Proposal for a directive
Annex I – paragraph 1 – point a
Directive 2003/87/EC
Annex 1 – point 2

Text proposed by the Commission

2. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the EU ETS, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, shall be added together. These units may include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW shall not be taken into account for the purposes of this calculation.;

Amendment

2. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the EU ETS, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, shall be added together. These units may include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW shall not be taken into account for the purposes of this calculation.;

Or. en

Proposal for a directive
Recital 42

5

Text proposed by the Commission

(42) *The exclusion of installations using exclusively biomass from the EU ETS has led to situations where installations combusting a high share of biomass have obtained windfall profits by receiving free allowances greatly exceeding actual emissions. Therefore, a threshold value for zero-rated biomass combustion should be introduced above which installations are excluded from the EU ETS. The threshold value of 95 % is in line with the uncertainty parameter set out in Article 2(16) of Commission Delegated Regulation (EU) 2019/331⁵⁶.*

Amendment

(42) *Deleted*

⁵⁶ *Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8).*

Or. en

Exclusion Criteria for small installations

AM 1382

Proposal for a directive

Article 1 – paragraph 1 – point 19 d (new)

Directive 2003/87/EC

Article 27 a – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States may exclude from the EU ETS installations that have reported to the competent authority of the Member State concerned emissions of less than 2 500 tonnes of carbon dioxide equivalent, disregarding emissions from biomass, in each of the three years preceding the notification under point (a), provided that the Member State concerned:

Amendment

"1. Member States may exclude from the EU ETS installations that have reported to the competent authority of the Member State concerned emissions of less than 2 500 tonnes of carbon dioxide equivalent, disregarding emissions from biomass, in each of the three years preceding the notification under point (a), provided that the Member State concerned:"

Or. en

6

Compromise Amendment 4
Municipal Waste Incineration (new) (Article 1 – paragraph 1, Annex – paragraph 1, Recital 13)
 EPP, S&D, RE, Greens, ID, ECR, The Left
 Compromise amendment replacing Amendments 48, 49, 109, 783, 784, 785, 816, 817, 1634, 1635, 1650-1657, 4, 168, 184-189, 236

hat formatiert: Englisch (Vereinigtes Königreich)

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hat formatiert: Englisch (Vereinigtes Königreich)

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

Text proposed by the Commission

Amendment

1. From 1 January 2026, the provisions of this Chapter shall apply to greenhouse gas emissions permits and the allocation and issue of allowances in respect of municipal waste incineration installations.

2. In this respect, the Commission shall, by 31 December 2024, present a report to the European Parliament and to the Council in which it shall examine the possible impacts of the inclusion of municipal waste incineration installations in the EU ETS on the disposal of waste by landfilling in the Union and on waste exports to third countries. The Commission shall, where appropriate, accompany that report with a legislative proposal to prevent those impacts.

In that report, the Commission shall also assess the possibility of including in the EU ETS other waste management processes, in particular landfills which create methane and nitrous oxide emissions from landfills in the Union, in the EU ETS.

The Commission shall, where appropriate, accompany that report with a legislative proposal to prevent the impacts referred to the third paragraph and to include the processes referred to in the

Kommentiert [LC1]: Compromise proposal: inclusion 2026, impact assessment by end of 2024

Justifications:

- impact assessment by 31 December 2024 provides the required time to COM to conduct the assessment and is connected together with review of the target laid down in Article 5, paragraph 5 of the Landfill Directive
 - inclusion from 1 January 2026 (new landfill target required to enter into force by then, and this date allows COM to introduce waste in ETS at the start of the 5-year benchmark period, which is useful for free allocation)

hat formatiert: Nicht Hervorheben

hat formatiert: Nicht Hervorheben

Kommentiert [MD2]: "emissions" is not a "process".

hat formatiert: Nicht Hervorheben

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fourth subparagraph ese sectors in the EU ETS.

Or. en

Proposal for a directive
Article 1 – paragraph 1 – point 10
Directive 2003/87/EC
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

From 1 January ~~2027~~2026, the Union-wide quantity of allowances shall be increased to take account of the inclusion of municipal waste incineration installations in the EU ETS. The Commission shall adopt implementing acts setting out the amount of the increase in the Union-wide quantity of allowances to take into account the inclusion of municipal waste incineration installations in the EU ETS. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

hat formatiert: Französisch (Belgien)

hat formatiert: Französisch (Belgien)

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hat formatiert: Französisch (Belgien)

hat formatiert: Nicht Hervorheben

Or. en

Proposal for a directive
Annex I – paragraph 1 – point a a (new)
Directive 2003/87/EC
Annex I – point 5

Present text

5. When the capacity threshold of any activity in this Annex is found to be exceeded in an installation, all units in which fuels are combusted, other than units for the incineration of hazardous *or municipal* waste, shall be included in the greenhouse gas emission permit.

Amendment

"5. When the capacity threshold of any activity in this Annex is found to be exceeded in an installation, all units in which fuels are combusted, other than units for the incineration of hazardous waste, shall be included in the greenhouse gas emission permit."

Or. en

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Proposal for a directive
Annex – paragraph 1 – point b – point -i (new)
Directive 2003/87/EC
Annex I – table – row 1

Present text

Combustion of fuels in installation with a total rated thermal input exceeding 20MW (except in installations for the incineration of hazardous *or municipal* waste) Carbon dioxide

Or. en

Amendment

(-i) The first row is replaced by the following:

Combustion of fuels in installations with a total rated thermal input exceeding 20 MW (except in installations for the incineration of hazardous waste) *including, from 1 January 2027* ~~2026~~, the combustion of fuels in installations for the incineration of municipal waste Carbon dioxide

Or. en

hat formatiert: Nicht Hervorheben

Proposal for a directive
Recital 13 a and 13 b (new)

Text proposed by the Commission

Amendment

(13a) The EU ETS should ~~as much as possible~~ avoid, as much as possible, undue exemptions and distortive measures. In the long-term, all sectors should play a role in contributing to the achievement of climate neutrality within the Union by 2050 and all CO₂ emissions should be covered by the EU-ETS appropriate Union policy instruments. The inclusion of municipal waste incineration installations in the EU

Kommentiert [OP3]: to avoid confusion with international instruments?

Kommentiert [LC4]: Redrafting based on recital 7, climate law, following TM 23.03.

Majority of groups (S&D, RE, Greens, ID, ECR, Left) oppose 'all CO₂ emissions should be covered by ETS'. New draft should be acceptable.

ETS would contribute to the circular economy by encouraging recycling, reuse and repair of products, while also contributing to economy-wide decarbonisation. Since recycling and regeneration activities are already covered by the EU ETS, the inclusion of municipal waste incineration installations would reinforce incentives for sustainable management of waste in line with the waste hierarchy. It would complement other elements of Union waste legislation. Moreover, integrating waste incineration into the EU ETS would create a level playing field between the regions that have included municipal waste incineration under the scope, reducing the risk of tax competition between regions. However, careful preparation is required to avoid large-scale deviation of waste from municipal waste incineration installations towards landfills in the Union, which create methane emissions, and exports of waste to third countries, with a potentially hazardous impact on the environment. Accordingly, the inclusion of municipal waste incineration installations within the scope of Directive 2003/87/EC from 1 January 2027-2026 should be preceded by an impact assessment to be conducted by 31 December 2025-2024, which, where appropriate, should be accompanied by a legislative proposal to prevent any such large-scale deviation of waste from municipal waste incineration installations towards landfills in the Union and such exports to third countries.

(13b) According to the eCommunication of the Commission of 14 October 2020 on an EU strategy to reduce methane emissions~~the European Union Methane Strategy, published in October 2020~~, 26 % of the continent's methane emissions come from waste. Worldwide, landfills and dumpsites are predicted to account for 8–10 % of all anthropogenic

Kommentiert [LC5]: Streamlining and softening to make more acceptable for S&D, RE, Greens

hat formatiert: Nicht Hervorheben

hat formatiert: Nicht Hervorheben

Kommentiert [OP6]: This makes the sentence circular given that it repeats the aim mentioned at the start. Hence it could be deleted - at the very least it should be shortened.

hat formatiert: Nicht Hervorheben

greenhouse gas emissions by 2025. The Union should aim ~~at~~ significantly ~~reduc~~ing landfilling in the Union and should in any case avoid that the future inclusion of waste incineration in the EU ETS creates an uneven ~~level~~-playing field and leads to increased landfilling. Therefore, the Commission should also assess the possibility and feasibility ~~of~~ including all waste management processes, such as landfills, fermentation, composting and mechanical-biological treatment, in the EU ETS.

Or. en

Compromise Amendment 5 Cross-Sectoral Correction Factor
EPP, S&D, RE, Greens, ID, ECR, The Left
Compromise amendment replacing Amendments 64-66; 1122-1133; (Article 10a(5)); 33
(recital 66a new)

<DocAmend>Proposal for a directive</DocAmend>
<Article>Article 1 – paragraph 1 – point 12 – point d a (new)</Article>
<DocAmend2>Directive 2003/87/EC</DocAmend2>
<Article2>Article 10a – paragraph 5</Article2>

Present text

5. In order to respect the auctioning share set out in Article 10, for every year in which the sum of free allocations does not reach the maximum amount that respects the auctioning share, the remaining allowances up to that amount shall be used to prevent or limit reduction of free allocations to respect the auctioning share in later years. Where, nonetheless, the maximum amount is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner.

Amendment

(da) paragraph 5 is replaced by the following:

"5. In order to respect the auctioning share set out in Article 10, for every year in which the sum of free allocations does not reach the maximum amount that respects the auctioning share, the remaining allowances up to that amount shall be used to prevent or limit reduction of free allocations to respect the auctioning share in later years. Where, nonetheless, the maximum amount is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner. ***However, installations whose greenhouse gas emission levels are below the average of the 10 % most efficient installations in a sector or subsector in the Union in the years 2021 and 2022 for the relevant product benchmarks shall be exempted from the adjustment.***"

Proposal for a directive
Article 1 – paragraph 1 – point 12 – point d a (new)
Directive 2003/87/EC
Article 10a – paragraphs 5a and 5b

/Present text

5a. By way of derogation from paragraph 5, an additional amount of up to 3 % of the total quantity of allowances shall, to the extent necessary, be used to increase the maximum amount available under paragraph 5

Amendment

"5a. By way of derogation from ***paragraphs 5 and paragraphs***, an additional amount of up to 3 % of the total quantity of allowances shall, to the extent necessary, be used to increase the maximum amount available under paragraph 5.

hat formatiert: Schriftart: Fett, Kursiv

hat formatiert: Hervorheben

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5b. Where less than 3% of the total quantity of allowances is needed to increase the maximum amount available under paragraph 5:
— a maximum of 50 million allowances shall be used to increase the amount of allowances available to support innovation in accordance with Article 10a(8); and
— a maximum of 0,5% of the total quantity of allowances shall be used to increase the amount of allowances available to modernise the energy systems of certain Member States in accordance with Article 10d.

5b. Where less than 3 % of the total quantity of allowances is needed to increase the maximum amount available under paragraph 5:
- a maximum of 50 million allowances shall be used to increase the amount of allowances available to support innovation in accordance with Article 10a(8); and
- a maximum of 0,5 % of the total quantity of allowances shall be used to increase the amount of allowances available to modernise the energy systems of certain Member States in accordance with Article 10d.”

Or. en

RECITALS

Proposal for a directive Recital 66 a (new)

Text proposed by the Commission

Amendment

(66a) To ensure that there is predictability for operators and avoid disincentivising best-performers and innovation as a result of additional and unforeseen costs, it is crucial to avoid the application of the cross-sectoral correction factor for frontrunners. ~~Therefore, additional allowances should be made available for the avoidance of the correction factor through different mechanisms, including by accelerating the phase-in of emissions trading for the maritime sector, similar measures related to the phase-out of free allocation for the aviation sector, and an increase in the buffer taken from Member States auctioning shares.~~

Or. en

Compromise Amendment 6A

Free allocation

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments

Draft Report AMs 58, 59, 60, 61, 62, 63, 82, 14, 15, 16

Articles: 821 - 823, 951 - 970, 999 - 1020, 1021 - 1044, 1045, 1046, 1047, 1048, 1049 - 1059, 1060 - 1073, 1074 - 1078, 1221, 1222, 1224 - 1228, 1223?, 1229? 1352, 1399

Recitals: 255, 269, 286 - 315, 318, 319, 328, 329, 335, 336, 638

GENERAL PROVISIONS & CARBON LEAKAGE LIST

Proposal for a directive

Article 1 – paragraph 1 – point 11 – point -a (new)

Directive 2003/87/EC

Article 10 – paragraph 1 – subparagraph 2

Present text

From 2021 onwards, and without prejudice to a possible reduction pursuant to Article 10a(5a), the share of allowances to be auctioned shall be 57 %.

Amendment

From 2021 onwards, and without prejudice to a possible reduction pursuant to Article 10a(5a), the share of allowances to be auctioned shall be 57 %.

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02003L0087-20210101&qid=1641400487702>

Proposal for a directive

Article 1 – paragraph 1 – point 12 a (new)

Directive 2003/87/EC

Article 10b – paragraph 1

Present text

1. Sectors and subsectors in relation to which the product resulting 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 euros), exceeds 0,2, shall be deemed to be at risk of carbon leakage.

Amendment

1. Sectors and subsectors in relation to which the product resulting 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 euros), exceeds 0,2, shall be deemed to be at risk of carbon leakage.

Kommentiert [LC1]: Carbon leakage list: Commission proposal (tiered approach) was assessed by Commission as alternative to strengthened intake rates, which Rapporteur proposes to maintain instead - see further down)

Such sectors and subsectors shall be allocated allowances free of charge for the period until 2030 at 100 % of the quantity determined pursuant to Article 10a.

Such sectors and subsectors shall be allocated allowances free of charge for the period until 2030 at 100 % of the quantity determined pursuant to Article 10a.

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02003L0087-20210101>)

Proposal for a directive

Article 1 – paragraph 1 – point 12 c (new)

Directive 2003/87/EC

Article 10b – paragraph 2

Text proposed by the Commission

2. Sectors and subsectors in relation to which the product resulting from multiplying their intensity of trade with third countries by their emission intensity exceeds 0,15 may be included in the group referred to in paragraph 1, using data for the years from 2014 to 2016, on the basis of a qualitative assessment and of the following criteria:

- (a) the extent to which it is possible for individual installations in the sector or subsector concerned to reduce emission levels or electricity consumption;
- (b) current and projected market characteristics, including, where relevant, any common reference price;
- (c) profit margins as a potential indicator of long-run investment or relocation decisions, taking into account changes in costs of production relating to emission reductions.

Amendment

2. Sectors and subsectors in relation to which the product resulting from multiplying their intensity of trade with third countries by their emission intensity exceeds 0,15 may be included in the group referred to in paragraph 1, using data for the years from 2014 to 2016, on the basis of a qualitative assessment and of the following criteria:

- (a) the extent to which it is possible for individual installations in the sector or subsector concerned to reduce emission levels or electricity consumption;
- (b) current and projected market characteristics, including, where relevant, any common reference price;
- (c) profit margins as a potential indicator of long-run investment or relocation decisions, taking into account changes in costs of production relating to emission reductions.

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 12 b (new)

Directive 2003/87/EC

Article 10b – paragraph 4

Present text

4. Other sectors and subsectors are considered to be able to pass on more of the costs of allowances in product prices, and shall be allocated allowances free of charge at 30 % of the quantity determined pursuant to Article 10a. Unless otherwise decided in the review pursuant to Article 30, free allocations to other sectors and subsectors, except district heating, shall decrease by equal amounts after 2026 so as to reach a level of no free allocation in 2030.

Amendment

4. Other sectors and subsectors are considered to be able to pass on more of the costs of allowances in product prices, and shall be allocated allowances free of charge at 30 % of the quantity determined pursuant to Article 10a. Unless otherwise decided in the review pursuant to Article 30, free allocations to other sectors and subsectors, except district heating, shall decrease by equal amounts after 2026 so as to reach a level of no free allocation in 2030.

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02003L0087-20210101>)

Compromise Amendment 6B

Exports (Article 10a(1a))

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments

Draft Report AMs 58, 59, 60, 61, 62, 63, 82, 14, 15, 16

Articles: 1045, 1012, 1031, 964, 1018, 1030, 1031, 1014, 1033, 1003, 1034, 993, 999, 1002, 1011, 1017, 1029, 1013, 1032, 967, 1009, 1047, 1048, 1035, 1037, 1046, 1027, 1028, 1075, 1352

Recitals: 255, 269, 286 - 315, 318, 319, 328, 329, 335, 336, 638

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point b a (new)

Directive 2003/87/EU

Article 10a – paragraph 1a a (new)

Text proposed by the Commission

Amendment

(ba) the following paragraph is inserted:

“1aa. Each year starting in 2025, as part of the annual Commission report pursuant to Article 10(5), the Commission shall present a report to the European Parliament and to the Council monitoring the effectiveness of the Carbon Border Adjustment Mechanism (CBAM) in addressing the carbon leakage risk for EU production for export to third countries without EU ETS or similar regulation. The report shall in particular assess the development of EU exports in CBAM sectors and the developments in trade flows and embedded emissions of covered products on the global market. Where the report finds such a carbon leakage risk for EU production for export to third countries, the Commission shall, where appropriate, present a legislative proposal to address the carbon leakage risk for EU production exported to third countries in a manner that is compliant with WTO rules and take into account the decarbonisation of installations in the Union.”

Or. en

Proposal for a directive

Recital 30 c (new)

Text proposed by the Commission

Amendment

(30c) CBAM is a mechanism that addresses the risk of carbon leakage through the application of a uniform price on emissions embedded in products placed on the domestic EU market. Therefore, it is important to also monitor, prevent and address the risk of EU production intended for export to third countries being replaced on the global market by more carbon intensive goods. Hence, the Commission should continuously monitor and assess the effectiveness of the Carbon Border Adjustment Mechanism (CBAM) in light of the carbon leakage risk on export markets, including the development of EU exports in CBAM sectors and the developments in trade flows and embedded emissions of related products on the global market. Where a risk of carbon leakage is detected, the Commission should present a WTO-compatible legislative proposal to address the carbon leakage risk on export markets. In addition to that, the EU should at the same time actively pursue the establishment of an international “carbon club” and continuously engage in international cooperation for the introduction of carbon pricing mechanisms as the success of the European carbon market is critical from a global perspective and will encourage more countries to introduce market driven carbon pricing. The Commission should further analyse how linkages with other carbon markets could be established while ensuring the achievement of the EU’s own economy-wide climate target.

Or. en

Compromise Amendment 6C - CBAM/Free Allocation trajectory

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments

Draft Report AMs 58, 59, 60, 61, 62, 63, 82, 14, 15, 16

Articles: 821 - 823, 951 - 970, 999 - 1020, 1021 - 1044, 1045, 1046, 1047, 1048, 1049 - 1059, 1060 - 1073, 1074 - 1078, 1221, 1222, 1224 - 1228, 1223?, 1229?, 1352, 1399

Recitals: 255, 269, 286 - 315, 318, 319, 328, 329, 335, 336, 638

Kommentiert [CLM1]: Summary:

1. ETS part (FA phase out) - based on ITRE + CBAM reserve
2. CBAM part (transition period, CBAM phase in start and end dates) - based on ITRE + additional line "in case the comprehensive transitional period does not prove to be WTO-compatible, the administrative transitional period shall be extended until 31 December 2027 instead".

1) ETS PART

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point a – point i

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 2b

Text proposed by the Commission

No free allocation shall be given to installations in sectors or subsectors to the extent they are covered by other measures to address the risk of carbon leakage as established by Regulation (EU) .../... [reference to CBAM](**). The measures referred to in the first subparagraph shall be adjusted accordingly.

Amendment

No free allocation shall be given to installations in sectors or subsectors to the extent they are covered by other measures to address the risk of carbon leakage as established by Regulation (EU) .../... [reference to CBAM](**). The measures referred to in the first subparagraph shall be adjusted accordingly.

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point b

Directive 2003/87/EC

Article 10a – paragraph 1a – subparagraph 1

Text proposed by the Commission

No free allocation shall be given in relation to the production of products listed in Annex I of Regulation [CBAM] as from the date of application of the Carbon Border Adjustment Mechanism.

Amendment

No free allocation shall be given in relation to the production of products listed in Annex I of Regulation [CBAM] as from the date of application of the Carbon Border Adjustment Mechanism.

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point b

1

Directive 2003/87/EC
Article 10a – paragraph 1a – subparagraph 2

Text proposed by the Commission

By way of derogation from the *previous* subparagraph, for the first years of operation of Regulation [CBAM], the production of *these* products shall benefit from free allocation in reduced amounts. A factor reducing the free allocation for the production of *these* products shall be applied (CBAM factor). The CBAM factor shall be equal to 100 % for the period *during the* entry into force of [CBAM regulation] and the end of 2025, 90 % in 2026 and shall be reduced by 10 percentage points each year to reach 0 % by the *tenth* year.

Amendment

By way of derogation from the *first* subparagraph, for the first years of operation of Regulation [CBAM], the production of products *listed in Annex I to that Regulation* shall benefit from free allocation in reduced amounts. A factor reducing the free allocation for the production of *those* products shall be applied (CBAM factor). *Contingent upon ensuring WTO compatibility and the avoidance of double protection*, the CBAM factor shall be equal to 100 % for the period *between ... [the date of* entry into force of [CBAM regulation]] and the end of 2027. *Contingent upon application of operational phase of [CBAM regulation, Article 36(3)(d)]*, the CBAM factor shall be reduced during a *transitional period by 10% from 2028 until 2030* before being reduced by 17,5 percentage points each year to reach 0 % by the *end of 2034*.

Kommentiert [CLM2]: Line added by ENVI Rapporteur

Kommentiert [CLM3]: ITRE

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point b

Directive 2003/87/EC

Article 10a – paragraph 1a – subparagraph 3

Text proposed by the Commission

The reduction of free allocation shall be calculated annually as the average share of the demand for free allocation for the production of products listed in Annex I of Regulation [CBAM] compared to the calculated total free allocation demand for all installations, for the relevant period referred to in Article 11, paragraph 1. The CBAM factor shall be applied.

Amendment

The reduction of free allocation shall be calculated annually as the average share of the demand for free allocation for the production of products listed in Annex I of Regulation [CBAM] compared to the calculated total free allocation demand for all installations, for the relevant period referred to in Article 11, paragraph 1. The CBAM factor shall be applied.

Or. en

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

Text proposed by the Commission

Amendment

Kommentiert [LC4]: CBAM Reserve

1aa. For each year in the period from 2028 to 2034, the allowances resulting from the reduction of free allocation in accordance with paragraph 1a shall be placed in a Carbon Border Adjustment Reserve.

By 28 February 2028 and by 28 February of each subsequent year in the period referred to in the first subparagraph, the Commission shall present a report to the European Parliament and to the Council on the implementation of the Carbon Border Adjustment Mechanism (CBAM) during the calendar year preceding that of the report. In its report, the Commission shall, in particular, assess if the CBAM has entered into force and has been effectively implemented such that it leads to a level of carbon leakage protection that is equivalent to that of the free allocation system which it replaces under this Article.

In the event that the Commission in its report concludes that, in the calendar year preceding that of the report, the CBAM has been effectively implemented such that it leads to a level of carbon leakage protection at least equivalent to that of the free allocation system which it replaces under this Article, the allowances placed in the Carbon Border Adjustment Reserve for the preceding calendar year shall be made available to support innovation in accordance with Article 10a(1a)(4) and Article 10a(8).

In the event that the Commission in its report concludes that, in the calendar year preceding that of the report, the CBAM has not been effectively implemented such that it leads to a level of carbon leakage

protection at least equivalent to that of the free allocation system which it replaces under this Article, the allowances placed in the Carbon Border Adjustment Reserve for the preceding calendar year shall be reallocated to installations in accordance with Article 10a(1).

1ab. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the detailed arrangements for the Carbon Border Adjustment Reserve provided for in paragraph 1aa of this Article, including the criteria to be used for the assessment referred to in the second subparagraph of that paragraph, and the modalities for the reallocation of allowances from the Carbon Border Adjustment Reserve to installations referred to in the fourth subparagraph of that paragraph.

Or. en

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2003/87/EC
Article 30 – paragraph 2

Text proposed by the Commission

The measures applicable to CBAM sectors shall be kept under review in light of the application of Regulation xxx [reference to CBAM].;

Amendment

The measures applicable to CBAM sectors shall be kept under review in light of the application of Regulation xxx [reference to CBAM].;

Or. en

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) The Carbon Border Adjustment Mechanism (CBAM), established under Regulation (EU) [.../..] of the European Parliament and of the Council⁵¹, is an alternative to free allocation to address the risk of carbon leakage. To the extent that

Amendment

(30) The Carbon Border Adjustment Mechanism (CBAM), established under Regulation (EU) [.../..] of the European Parliament and of the Council⁵¹, is an alternative to free allocation to address the risk of carbon leakage **without**

4

sectors and subsectors are covered by that measure, they should not receive free allocation. However, a transitional phasing-out of free allowances is needed to allow producers, importers and traders to adjust to the new regime. The reduction of free allocation should be implemented by applying a factor to free allocation for CBAM sectors, while the CBAM is phased in. This percentage (CBAM factor) should be equal to 100 % during the transitional period between the entry into force of [CBAM Regulation] and 2025, 90 % in 2026 and should be reduced by 10 percentage points each year to reach 0 % and thereby eliminate free allocation by the tenth year.

The relevant delegated acts on free allocation should be adjusted accordingly for the sectors and subsectors covered by the CBAM. **The free allocation no longer provided to the CBAM sectors based on this calculation (CBAM demand) must be auctioned and the revenues will accrue to the Innovation Fund, so as to support innovation in low carbon technologies, carbon capture and utilisation ('CCU'), carbon capture and geological storage ('CCS'), renewable energy and energy storage, in a way that contributes to mitigating climate change. Special attention should be given to projects in CBAM sectors.** To respect the proportion of the free allocation available for the non-CBAM sectors, the final amount to deduct from the free allocation and to be auctioned should be calculated based on the proportion that the CBAM demand represents in respect of the free allocation needs of all sectors receiving free allocation.

⁵¹ [please insert full OJ reference]

undermining the Union competitiveness.

To the extent that sectors and subsectors are covered by that measure, they should not receive free allocation. However, a transitional phasing-out of free allowances, **combined with a reserve and review mechanism**, is needed to allow producers, importers and traders to adjust to the new regime **and to assess the effective implementation of the CBAM.** The reduction of free allocation should be implemented by applying a factor to free allocation for CBAM sectors, while the CBAM is phased in. This percentage (CBAM factor) should be equal to 100 % during the transitional period between the entry into force of [CBAM Regulation] and **the end of 2027, and contingent upon application of operational phase under the CBAM regulation, Article 36(3)(d)**, and should be reduced by 10 percentage points each year **from 2028 until 2030 before being reduced by 17,5 percentage points each year** to reach 0 % and thereby eliminate free allocation by 2034.

The relevant delegated acts on free allocation should be adjusted accordingly for the sectors and subsectors covered by the CBAM. **This phase-out of free allocation should be kept under review in light of the entry into force and effective implementation of the CBAM.** To respect the proportion of the free allocation available for the non-CBAM sectors, the final amount to deduct from the free allocation and to be auctioned should be calculated based on the proportion that the CBAM demand represents in respect of the free allocation needs of all sectors receiving free allocation.

⁵¹ [please insert full OJ reference]

Kommentiert [LC5]: ITRE

Or. en

Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission

Amendment

Kommentiert [LC6]: CBAM reserve

(30a) A temporary Carbon Border Adjustment Reserve should be established, linked to an annual review mechanism to assess the entry into force and effective implementation of the CBAM. Each year, the free allocation no longer provided to the CBAM sectors, based on the free allocation phase-out calculation, should be moved into a temporary reserve. By 28 February of the following year, the Commission should assess and report on the entry into force of the CBAM and its effectiveness during the preceding year, namely whether it resulted in an equivalent level of carbon leakage protection. Where the assessment is positive, the allowances in the reserve from the preceding year should automatically be auctioned and the revenues should accrue to the Net-Zero-Fund. Special attention should be given to projects in CBAM sectors, in particular those with higher export intensity . Where the assessment is negative, the allowances in the reserve from the preceding year should automatically be released back to industry to fill the carbon leakage protection gap. This should limit any possible gaps that might arise in carbon leakage protection, while avoiding double protection.

Or. en

2) CBAM PART

Kommentiert [CLM7]: ITRE 134-139; 141-145

Amendment 134

Proposal for a regulation Article 30 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

Kommentiert [LC8]: Comprehensive transitional period

2 b. A comprehensive transitional period shall be established from 1 January 2027 to 31 December 2027. The Commission shall establish a framework by which to ensure that the measures applied during that period comply with the WTO rules. In case the comprehensive transitional period does not prove to be WTO-compatible, the administrative transitional period shall be extended until 31 December 2027 instead.

Kommentiert [LC9]: Line added

Amendment 135

Proposal for a regulation Article 30 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2 c. By the end of the comprehensive transitional period referred to in paragraph 2b, the Commission shall submit a report to the European Parliament and the Council containing its assessment of the full application of this Regulation. The report shall, in particular, focus on:

a) the impact on European industry and downstream industry of sectors listed in Annex I, as well as on SMEs and possible additional administrative burden for SMEs;

b) the impact of CBAM on Union trade of goods listed in Annex I and possible circumvention practices;

c) the assessment of whether a change in pattern in trade in goods listed in Annex I occurred in countries exporting those goods to the Union and whether resource-shuffling takes places;

d) the assessment of impact of CBAM on emissions from sectors producing goods listed in Annex I, as relating to both emissions in the Union and emissions embedded in Union imports of those goods, as well as exports of those goods to third countries from third country installations exporting to the Union;

e) the assessment of efficacy of emission reporting in CBAM declarations, verifications of CBAM declarations by verifiers, third country inspections, actual and default emissions data collection and use, as well as consistency of reporting data from the same imports among different importers and Member States;

f) the risk of carbon leakage on export markets and to consider WTO-compatible solutions such as export adjustment mechanisms that would equilibrate carbon costs.

g) the assessment per sector to examine whether a CBAM is still effective and practicable for the sector concerned, specifically for manufacturing industries facing serious difficulties.

**Proposal for a regulation
Article 30 – paragraph 2 d (new)**

Text proposed by the Commission

Amendment

2 d. The effective implementation of CBAM and the contingent phase out of free allocations shall be continuously monitored. The Commission may consider review mechanisms to appropriately address the results of the monitoring procedure in this Article.

Proposal for a regulation
Article 31 – paragraph 1

Text proposed by the Commission

1. The CBAM certificates **to** be surrendered in accordance with Article 22 shall **be adjusted to reflect the extent to which EU ETS allowances are allocated free of charge** in accordance with **Article 10a of Directive 2003/87/EC to installations producing, within the Union, the goods listed in Annex I.**

Proposal for a regulation
Article 31 – paragraph 1 a (new)

Text proposed by the Commission

Proposal for a regulation
Article 36 – paragraph 3 – point -a (new)

Text proposed by the Commission

Proposal for a regulation
Article 36 – paragraph 3 – point a

Amendment

1. **By 31 December 2026**, the CBAM certificates **shall** be surrendered in accordance with Article 22. **The Commission shall implement these measures** in accordance with **WTO rules.**

Amendment

1 a. By 31 December 2027, those certificates shall also be adjusted to reflect the start of the phasing out of free EU ETS allowances in accordance with Article 10a of Directive 2003/87/EC to installations producing, within the Union, the goods listed in Annex I.

Amendment

(-a) Article 30.2a shall apply from 1 January 2027 until 31 December 2027.

Text proposed by the Commission

(a) Articles 32 to 34 shall apply until 31 December **2025**.

Proposal for a regulation
Article 36 – paragraph 3 – point b

Text proposed by the Commission

(b) Article 35 shall apply until 28 February **2026**.

Proposal for a regulation
Article 36 – paragraph 3 – point d

Text proposed by the Commission

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2026**.

Proposal for a regulation
Article 36 – paragraph 3 – point d a (new)

Text proposed by the Commission

Proposal for a regulation
Recital 50

Text proposed by the Commission

(50) A transitional period should apply during the period 2023 until **2025**. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade. Declarants should have to report on a

Amendment

(a) Articles 32 to 34 shall apply until 31 December **2026**.

Amendment

(b) Article 35 shall apply until 28 February **2027**.

Amendment

(d) Articles 4, 6, 7, 8, 9, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 31 shall apply from 1 January **2027**.

Amendment

(d a) Article 31.1a shall apply from 31 December 2027.

Amendment

(50) **An administrative** transitional period should apply during the period 2023 until **2026 and shall be used for data collection and analysis of the impact of CBAM on the industries concerned and to prevent the carbon leakage, with particular focus of the potential impact of**

quarterly basis the actual embedded emissions in goods imported during the transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

the phase-out of free allocations. A CBAM without financial adjustment should apply, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disruptive impacts on trade ***and European industry.*** Declarants should have to report on a quarterly basis the actual embedded emissions in goods imported during the ***administrative*** transitional period, detailing direct and indirect emissions as well as any carbon price paid abroad.

Proposal for a regulation
Recital 50 a (new)

Text proposed by the Commission

Amendment

(50 a) A comprehensive transitional period should apply during the period 1 January 2027 to 31 December 2027, with the objective to facilitate a smooth roll out of the mechanism hence reducing the risk of disproportionate impacts on European industry. Should the comprehensive transitional period be proven to be incompatible with WTO rules, the administrative transitional period shall be extended until 31 December 2027.

Compromise Amendment 6D

Free Allocation Revenue

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments

Draft Report AMs 58, 59, 60, 61, 62, 63, 82, 14, 15, 16

Articles: 821 - 823, 951 - 970, 999 - 1020, 1021 - 1044, 1045, 1046, 1047, 1048, 1049 - 1059, 1060 - 1073, 1074 - 1078, 1221, 1222, 1224 - 1228, 1223?, 1229? 1352, 1399

Recitals: 255, 269, 286 - 315, 318, 319, 328, 329, 335, 336, 638

USE OF ALLOWANCES RESULTING FROM CBAM PHASE-IN

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point b

Directive 2003/87/EC

Article 10a – paragraph 1a – subparagraph 4

Text proposed by the Commission

Allowances resulting from the reduction of free allocation shall be made available to support innovation in accordance with Article 10a(8);

Amendment

Allowances resulting from the reduction of free allocation shall be made available ~~to~~ support innovation for the Fund in accordance with Article 10a(8);

Or. en

Kommentiert [LC1]: To be discussed: revenue for international climate finance: 2 options, each with challenges:
A) from allowances resulting from the reduction of free allocation (ETS). Problems: (1) Innovation Fund decreases, (2) money taken from EU industry, (3) complex legal challenges of monetising allowances outside of the ETS system
B) from CBAM certificate revenue (CBAM). Problems: problem for BUDG, who want it as general revenue. However, BUDG is open to using MFF instruments to corresponding amounts for more climate finance, such as increasing NDICI.

RE, ECR, ID: phased out free allocation should go 100%to Innovation Fund
S&D: sees practical problems on both sides
Greens, LEFT: send part of free allocation phase out to climate finance

Compromise Amendment 7
Conditionality (Article 10a(1)(2a & b); Recital 29
EPP, S&D, RE, Greens, ID, ECR, The Left
 Compromise amendment replacing Amendments
 AM 56, 820, 918 – 950 (Article 10a(1)); 13, 272-285 (recital 29)

Kommentiert [MD1]: DLA comments in blue

Summary of compromise proposal:

- Conditionality 1: energy audit/certified energy management system requirement
- Conditionality 2: decarbonisation plans
- Scaled approach to free allowance reduction:
 - 35% for worst-performers (90-100 percentile in benchmark)
 - 30% for middle group (50-90 percentile in benchmark)
 - 25% for better performers (10-50 percentile in benchmark)
 These reductions apply individually for each conditionality, meaning if an installation does not meet conditionality 1 and does not meet conditionality 2, the reduction of free allocation is 2x [35%] = 70%. If an installation meets conditionality 1, but not conditionality 2, the reduction is 1x [35%].
- Any allowances reduced as result of the conditionalities allocated as bonus to best-performers (0-10 percentile in benchmark)

Energy Audit Conditionality and Decarbonisation Plans (Article 10a(1))

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point a – point i

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 2a

Text proposed by the Commission

In the case of installations covered by the obligation to conduct an energy audit under Article 8(4) of Directive 2012/27/EU of the European Parliament and of the Council(*) [Article reference to be updated with the revised Directive], free allocation shall only be granted fully if the recommendations of the audit report are implemented, to the extent that the pay-back time for the relevant investments does not exceed **five** years and that the costs of those investments are proportionate. Otherwise, the amount of free allocation shall be reduced by 25 %. The amount of free allocation shall not be reduced if an operator demonstrates that it has implemented other measures which lead to greenhouse gas emission reductions equivalent to those recommended by the

Amendment

2a. In the case of installations covered by the obligation to conduct an energy audit **or have implemented a certified energy management system** under Article 8(4) of Directive 2012/27/EU of the European Parliament and of the Council(*) [Article reference to be updated with the revised Directive], free allocation shall only be granted fully if **a certified energy management system can be proven or the recommendations of the audit report or of the certified energy management system are implemented or the energy management system is certified by an independent body according to the relevant European or international standards**, to the extent that the pay-back time for the relevant investments does not exceed **eight** years and that the costs of

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Kommentiert [MD2]: This is a new third subparagraph of paragraph 1, so numbering should not be inserted, but it may of course be used for reference purposes during this draft stage. We will check the references in the whole compromise, when it is stable.

Formatiert: Standard, Vom nächsten Absatz trennen

Kommentiert [CLM3]: SM 2022.05.02

Kommentiert [LC4]: TM 11.04: RE to provide additional information

hat formatiert: Englisch (Vereinigtes Königreich)

Kommentiert [MD5]: As also mentioned in our comments of 7 April:

same order as above

It would seem useful to further specify how this "can be proven".

Article 11(1) of the Energy Efficiency recast says:
 "1. Member States shall ensure that enterprises with an average annual consumption higher than 100TJ of energy over the previous three years and taking all energy carriers together, implement an energy management system. The energy management system shall be certified by an independent body according to the relevant European or International Standards."

audit report. The measures referred to in the first subparagraph shall be adjusted accordingly.

those investments are proportionate. Otherwise, the amount of free allocation shall be reduced in accordance with subparagraph 2c ~~by 25 %~~. The amount of free allocation shall not be reduced if an operator demonstrates that it has implemented other measures which lead to greenhouse gas emission reductions equivalent to those recommended by the audit report for that the installation concerned. The measures referred to in the first subparagraph shall be adjusted accordingly.

2b. In addition to the requirements set out in the first subparagraph 2a, b ~~By 1 July 2025/January 2026, operators in sectors or sub-sectors eligible for free allocation of emissions allowances pursuant to Articles 10a and 10b shall establish a climate-neutrality decarbonisation plan for each of their installations for its activities subject to the scope of this Directive. That plan shall be consistent with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119 and any relevant sectoral roadmaps prepared in accordance with Article 10 of that Regulation and shall set out:~~

(a) *measures and related financial and investment plans for each installation ~~owned by the company concerned to reach climate-neutrality by 2050~~ the necessary emission reductions consistent with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119 and any relevant sectoral roadmaps prepared in accordance with Article 10 of that Regulation at installation ~~or company~~ level, excluding the use of carbon offset credits;*

(b) *intermediate targets and milestones to measure, by 31 December 2025 and by 31 December of each subsequent year thereafter until 2050, progress made towards reaching climate-neutrality as set out in point (a);*

(c) *an estimate of the impact of each of the measures and related financial and*

Kommentiert [LC6]: Conditionality percentages moved into a separate subparagraph 2c for clarity (see below)

Kommentiert [LC7]: TM 11.04: compromise proposal:
- plan to be ready by 1 July 2025, giving installations some time to comply (as the plan needs to cover a 20 year period, it needs to be properly assessed and prepared)
- with implementation of first measures (see point b) to be controlled by 31 December 2025, giving six months to implement first measures
- in time for potential reduction of free allocation in February 2026 when new free allocation is allocated at start of new benchmark period - free allocation is allocated once per year around February

Kommentiert [LC8]: Clarification of double nature of the two conditionality requirements (audits+plans). Operators must comply with both conditionalities. For each of the conditionalities not met, they face a reduction of free allocation.

Kommentiert [LC9]: RE 938

Kommentiert [LC10]: TM 11.04: S&D, RE, Greens: 'decarbonisation' plan

Kommentiert [LC11]: Alignment with the paragraph above.

Kommentiert [LC12]: S&D, RE, Greens, LEFT (Greens AM 820)

investments **plans** referred to in point (a) as regards the reduction of greenhouse gas emissions and the targets and milestones referred to in point (b).

(d) measures to address the implications for re- and up-skilling of the workforce, including through social dialogue, in accordance with national law and practice, in order to ensure a just transition.

Member States may provide financial support ~~to operators fortowards~~ the implementation of the **ir** plans referred to in the third subparagraph. Such support shall not be considered illegal state aid.

The attainment of the targets and milestones referred to in point (b) of the third subparagraph shall be verified by 31 December 2025 and by 31 December of each subsequent year thereafter until 2050, in accordance with the verification and accreditation procedures provided for in Article 15.

If no ~~climate-neutrality~~ decarbonisation plan has been established in accordance with this paragraph or if the milestones and targets in the plan have not been attained, the amount of free allocation shall be reduced in accordance with subparagraph 2c.

2ba. The Commission, supported by the European Scientific Advisory Board on Climate Change referred in Article 3 of Regulation (EU) 2021/1119, is empowered to adopt delegated act in accordance with Article 23 to supplement this Directive by setting minimal content and format of the decarbonisation plans referred to in paragraph 2b, in particular as to benchmarks for the intermediate targets and milestones referred to in point (b) of paragraph 2b. The establishment and adoption of the delegated act shall involve all relevant stakeholders.

2c. Where ~~either of the requirements in either subparagraph 2a4 or 2a5~~ subparagraph 2b have not been

Kommentiert [CLM13]: SM 2022.05.02: based on S&D 936

~~achieved/fulfilled~~, free allocation shall be reduced by:

~~(a) 35%~~ for the installations whose greenhouse gas emission levels are above the ~~average of the 10 % least efficient installations in a sector or subsector in the Union for the relevant product benchmarks~~;

~~(b) 30%~~ for installations whose greenhouse gas emission levels ~~that are~~ below the average of the 10 % least efficient installations in a sector or subsector in the Union for the relevant product benchmarks and above the ~~average of the 50 % most efficient installations in that sector or subsector~~;

~~(c) 25%~~ for installations whose greenhouse gas emission levels are above the average of the 10 % most efficient installations in a sector or subsector in the Union for the relevant product benchmarks and below the ~~average of the 50 % most efficient installations in that~~ sector or subsector.

~~Where neither the requirements in neither subparagraphs 2a and/or 2b have been achieved/fulfilled, the percentages set out in points (a), (b) and (c) of the [x] subparagraph shall be doubled.~~

~~In the case of installations whose greenhouse gas emission levels are above the average of the 10 % most efficient installations in a sector or subsector in the Union in the years 2021 and 2022 for the relevant product benchmarks, free allocation shall be reduced by 25 % if no climate neutrality plan has been established or the milestones and targets in the installation's climate neutrality plan have not been attained. The measures referred to in the first subparagraph shall be adjusted accordingly.~~

~~2d. An additional free allocation of 10 % of the applicable benchmark value shall be given to installations whose greenhouse gas emission levels are below~~

Kommentiert [CLM14]: SM 2022.05.03

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the average of the 10 % most efficient installations in a sector or subsector in the Union for the relevant product benchmarks provided allowances are available in accordance with the second subparagraph.

For the purpose of the additional free allocation referred to in the seventh subparagraph of this paragraph, ~~the following allowances shall be used:~~

(a) — any allowances that are not allocated due to a reduction of free allocation in accordance with the fifth subparagraph of this paragraph shall be used to the extent available.

(b) — ~~by way of derogation from Article 1(5a) of Decision (EU) 2015/1814 and to the extent necessary, allowances which would otherwise be invalidated in accordance with that Article.~~

(*) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

Or. en

Proposal for a directive Recital 29

Text proposed by the Commission

(29) Further incentives to reduce greenhouse gas emissions by using cost-efficient techniques should be provided. To that end, *the* free allocation of emission allowances *to stationary installations* from 2026 onwards *should be conditional on investments in techniques to increase energy efficiency and reduce emissions. Ensuring that this is focused on larger energy users would result in a substantial reduction in burden for businesses with lower energy use, which may be owned by*

Amendment

(29) Further incentives to reduce greenhouse gas emissions by using cost-efficient techniques should be provided. To that end, *a bonus-malus system should be introduced for determining the share of free allocation. For installations whose greenhouse gas emissions are above the relevant benchmark values, the amount of free allocation of emission allowances from 2026 onwards should vary according to in line with the implementation of a duly established ~~climate-~~*

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| *small and medium sized enterprises or micro-enterprises. [Reference to be confirmed with the revised EED]. The relevant **delegated acts** should be adjusted accordingly.*

*~~neutrality~~**decarbonisation** plan. Conversely, installations whose **greenhouse gas** emissions *are below* the relevant **benchmark values** should *receive an incentive in the form of an additional free allocation.**

Or. en

Compromise Amendment 8
Benchmarks (Article 10a(1)+(2), Recitals 8 & 31)
Draft Report AMs
EPP, S&D, RE, Greens, ID, ECR, The Left
 Compromise amendment replacing Amendments
 Articles: 971 - 995, 1079 - 1121, 1134 - 1150, 1157, 1158, 1297 - 1299
 Recitals: 147, 156, 158, 320 - 327, 330 - 334, 337

Kommentiert [LC1]: TM 22.04: ITRE AM 32, 11 on sector-specific fallback approaches:
 - further information requested to ITRE
 - agreement that groups will consider inclusion of these AMs in the CA, or accept these to be voted separately if not included.

Benchmark Review

Proposal for a directive
Article 1 – paragraph 1 – point 12 – point a – point ii
 Directive 2003/87/EC
 Article 10a – paragraph 1 – subparagraph 3

Text proposed by the Commission

In order to provide further incentives for reducing greenhouse gas emissions and improving energy efficiency, the determined Union-wide ex-ante benchmarks shall be reviewed before the period from 2026 to 2030 in view of potentially modifying the definitions and system boundaries of existing product benchmarks.;

Amendment

In order to provide further incentives for reducing greenhouse gas emissions and improving energy efficiency, the determined Union-wide ex-ante benchmarks shall be reviewed *as soon as possible and no later than ...~~12~~ 6* *six* months *after of the date of entry into force of this Directive*, in view of potentially modifying the definitions, *scope*, and system boundaries of existing product benchmarks *and potentially including new benchmarks* ensuring that free allocation for the production of a product is independent of the feedstock or the type of production process, where the production processes have the same purpose, accounts for the circular use potential of materials, or avoids that installations with partially or fully decarbonised processes producing products with similar or equal characteristics as conventional installations in the benchmark. ~~Are~~ excluded from or cannot participate in the benchmarks system. The benchmark values resulting from that review shall be published as soon as the necessary information becomes available, in order for those benchmark values *e updates to* apply from 2026.

Kommentiert [LC2]: TM 22.04

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hat formatiert: Schriftart: Fett, Kursiv, Schriftfarbe: Automatisch, Englisch (Vereinigtes Königreich)

hat formatiert: Schriftart: Fett, Kursiv

Kommentiert [LC3]: TM 22.04: S&D to send further clarifications on added value

Kommentiert [LC4]: TM 22.04

Kommentiert [MD5]: Linguistic clarification needed: Does this relate to “new benchmarks” or to “production processes”?

Kommentiert [OP6R5]: or is it linked to ‘ensuring that free allocation’?

Kommentiert [MD7]: same question

Kommentiert [LC8]: TM 22.04: clarification, was omitted from first version by accident

Kommentiert [LC9]: ITRE, EPP, S&D, RE, Greens, LEFT

Kommentiert [OP10]: One cannot ‘participate in a benchmark’

hat formatiert: Nicht Hervorheben

Kommentiert [LC11]: (Draft Report, ITRE) Technical clarifications by DG CLIMA provided at TM 22.04 and in writing on legal challenges and limited added value of moving forward within the current benchmark.

hat formatiert: Nicht Hervorheben

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hat formatiert: Nicht Hervorheben

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point a – point ii a (new)

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 4

Present text

In defining the principles for setting ex-ante benchmarks in individual sectors and subsectors, the Commission shall consult the relevant stakeholders, including the sectors and subsectors concerned.

Amendment

In defining the principles for setting ex-ante benchmarks in individual sectors and subsectors, the Commission shall consult the relevant stakeholders, including the sectors and subsectors concerned.

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Or. en

Benchmark update rates

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point c – point i

Directive 2003/87/EC

Article 10a – paragraph 2 - subparagraph 3 – point c

Text proposed by the Commission

(c) For the period from 2026 to 2030, the benchmark values shall be determined in the same manner as set out in points (a) and (d) on the basis of information submitted pursuant to Article 11 for the years 2021 and 2022 and on the basis of applying the annual reduction rate in respect of each year between 2008 and 2028.;

Amendment

(c) For the period from 2026 to 2030, the benchmark values shall be determined in the same manner as set out in points (a) and (d) on the basis of information submitted pursuant to Article 11 for the years 2021 and 2022 and on the basis of applying the annual reduction rate in respect of each year between 2008 and 2028.;

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point c – point ii

Directive 2003/87/EC

Article 10a – paragraph 2 - subparagraph 3 - point d

Text proposed by the Commission

(d) Where the annual reduction rate exceeds 2,5 % or is below 0,2 %, the benchmark values for the period from 2026 to 2030 shall be the benchmark values

Amendment

(d) Where the annual reduction rate exceeds 2,5 % or is below, **10,5 %**, the benchmark values for the period from 2026 to 2030 shall be the benchmark values

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applicable in the period from 2013 to 2020 reduced by whichever of those two percentage rates is relevant, in respect of each year between 2008 and 2028.

applicable in the period from 2013 to 2020 reduced by whichever of those two percentage rates is relevant, in respect of each year between 2008 and 2028.

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point c – point iii a (new)

Directive 2003/87/EC

Article 10a – paragraph 2 – subparagraph 6

Text proposed by the Commission

In order to promote efficient energy recovery from waste gases, for the period referred to in point (b) of the third subparagraph, the benchmark value for hot metal, which predominantly relates to waste gases, shall be updated with an annual reduction rate of 0,2 %.

Amendment

In order to promote efficient energy recovery from waste gases, for the period referred to in point (b) of the third subparagraph, the benchmark value for hot metal, which predominantly relates to waste gases, shall be updated with an annual reduction rate of 0,2 %.

Or. en

Kommentiert [LC12]: This cross-reference means the special treatment ends at the end of the current benchmark period (2025) under the Commission proposal.

Technical clarifications by DG CLIMA provided at TM 22.04 and in writing on legal challenges and limited added value of moving forward within the current benchmark.

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point f

Directive 2003/87/EC

Article 10a – paragraph 7 – subparagraph 1

Present text

Allowances from the maximum amount referred to in paragraph 5 of this Article which were not allocated for free by 2020 shall be set aside for new entrants, together with 200 million allowances placed in the market stability reserve pursuant to Article 1(3) of Decision (EU) 2015/1814. Of the allowances set aside, up to 200 million shall be returned to the market stability reserve at the end of the period from 2021 to 2030 if not allocated for that period.

Amendment

Allowances from the maximum amount referred to in paragraph 5 of this Article which were not allocated for free by 2020 shall be set aside for new entrants, together with 200 million allowances placed in the market stability reserve pursuant to Article 1(3) of Decision (EU) 2015/1814. Of the allowances set aside, up to 200 million shall be returned to the market stability reserve at the end of the period from 2021 to 2030 if not allocated for that period.

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 14 a (new) Directive 2003/87/EC

Article 11 – paragraph 1 – subparagraph 2

hat formatiert: Schriftart: Nicht Fett

Text proposed by the Commission

A list of installations covered by this Directive for the five years beginning on 1 January 2021 shall be submitted by 30 September 2019, and lists for each subsequent period of five years shall be submitted every five years thereafter. Each list shall include information on production activity, transfers of heat and gases, electricity production and emissions at sub-installation level over the five calendar years preceding its submission. Free allocations shall only be given to installations where such information is provided.

Amendment

“A list of installations covered by this Directive for the five years beginning on 1 January 2021 shall be submitted by 30 September 2019, and lists for each subsequent period of five years shall be submitted every five years thereafter. Each list shall include information on production activity, transfers of heat and gases, electricity production and emissions at sub-installation level over the five calendar years preceding its submission. Free allocations shall only be given to installations where such information is provided.”

Or. en

Recitals

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) The EU ETS should incentivise production from installations that partly or fully reduce greenhouse gas emissions. Therefore, the description of some categories of activities in Annex I to Directive 2003/87/EC should be amended to ensure an equal treatment of installations in the sectors concerned. In addition, free allocation for the production of a product should be independent of the nature of the production process. It is therefore necessary to modify the definition of the products and of the processes and emissions covered for some benchmarks to ensure a level playing field for new and existing technologies. It is also necessary to decouple the update of the benchmark values for refineries and for hydrogen to reflect the increasing importance of production of hydrogen outside the refineries sector.

Amendment

(8) The EU ETS should incentivise production from installations that partly or fully reduce greenhouse gas emissions. Therefore, the description of some categories of activities in Annex I to Directive 2003/87/EC should be amended to ensure an equal treatment of installations in the sectors concerned. In addition, free allocation for the production of a product should be independent of the nature of the production process. It is therefore necessary to modify the definition of the products and of the processes and emissions covered for some benchmarks to ensure a level playing field for new and existing technologies. It is also necessary to decouple the update of the benchmark values for refineries and for hydrogen to reflect the increasing importance of production of **green** hydrogen outside the refineries sector.

Or. en

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Kommentiert [LC13]: TM 22.04: explanation of why the benchmarks are decoupled (by creating one hydrogen benchmark, green hydrogen is incentivised as the best performing hydrogen)

**Proposal for a directive
Recital 8a (new)**

Text proposed by the Commission

Amendment

When ~~in~~ defining the principles for setting ex-ante benchmarks in individual sectors and subsectors, the Commission should consult the relevant stakeholders, including ~~in~~ the sectors and subsectors concerned, civil society representatives and the European Scientific Advisory Board on Climate Change referred to established in Article 3 of Regulation (EU) 2021/1119.

- hat formatiert: Hervorheben
- Kommentiert [OP14]: the sectors themselves are not stakeholders
- hat formatiert: Hervorheben
- hat formatiert: Hervorheben
- hat formatiert: Hervorheben
- Kommentiert [CLM15]: SM 19.04: agreed to reflect LEFT AM 995 in recital

**Proposal for a directive
Recital 31**

Text proposed by the Commission

Amendment

(31) In order to better reflect technological progress and adjust the corresponding benchmark values to the relevant period of allocation while ensuring emission reduction incentives and properly rewarding innovation, the maximum adjustment of the benchmark values should be increased from 1,6 % to 2,5 % per year. For the period from 2026 to 2030, the benchmark values should thus be adjusted within a range of 4 % to 50 % compared to the value applicable in the period from 2013 to 2020.

(31) In order to better reflect technological progress and adjust the corresponding benchmark values to the relevant period of allocation while ensuring emission reduction incentives and properly rewarding innovation, the maximum adjustment of the benchmark values should be increased from 1,6 % to 2,5 % per year. For the period from 2026 to 2030, the benchmark values should thus be adjusted within a range of 4 % to 50 % compared to the value applicable in the period from 2013 to 2020. ***The adjusted benchmark values should be published as soon as the necessary information becomes available, and no later than... [12-6six months after the date of the entry into force of this Directive] in order for those adjusted benchmark values to apply be applicable from 2026.***

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- Kommentiert [MD16]: This deadline is on the review and not on the publication in the Article, so consider to delete it here for consistency with the Article.
- hat formatiert: Hervorheben
- Kommentiert [LC17]: Alignment with article 10a(1)(3)

Or. en

Compromise Amendment 9 INDIRECT COST COMPENSATION

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 316, 1134-1157 (article 10a(6))

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point e

Directive 2003/87/EC

Article 10a – paragraph 6

Text proposed by the Commission

Member States should adopt financial measures in accordance with the second and fourth subparagraphs in favour of sectors or subsectors 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, provided that such financial measures are in accordance with State aid rules, and in particular do not cause undue distortions of competition in the internal market. The financial measures adopted should not compensate indirect costs covered by free allocation in accordance with the benchmarks established pursuant to paragraph 1. Where a Member State spends an amount higher than the equivalent of 25 % of their auction revenues of the year in which the indirect costs were incurred, it shall set out the reasons for exceeding that amount.;

Directive 2003/87/EC

Recital 31 a (new)

Text proposed by the Commission

Amendment

Member States should adopt financial measures in accordance with the second and fourth subparagraphs in favour of sectors or subsectors 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, provided that such financial measures are in accordance with State aid rules, and in particular do not cause undue distortions of competition in the internal market. The financial measures adopted should not compensate indirect costs covered by free allocation in accordance with the benchmarks established pursuant to paragraph 1. Where a Member State spends an amount higher than the equivalent of 25 % of their auction revenues of the year in which the indirect costs were incurred, it shall set out the reasons for exceeding that amount.;

Or. en

Amendment

(31a) *The significant indirect costs that incur from greenhouse gas emission costs passed on in electricity prices cause a risk of carbon leakage to certain sectors. To*

mitigate that risk, Member States should adopt financial measures for indirect cost compensation. The measures should be in accordance with State aid rules, and should not cause undue distortions of competition in the internal market.

Kommentiert [LC1]: ITRE

Compromise Amendment

11 Article 10c

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 72, 73, 916 (article 10a), 1230-1233 (article 10c), 12, 270-271 (recital 28a)

Report back from written procedure:

Supported by EPP, Greens, ECR, LEFT

No further comments.

Proposal for a directive

Article 1 – paragraph 1 – point 12 – point a – point -i (new)

Directive 2003/87/EC

Article 10a – paragraph 1 – subparagraph 2

Present text

Amendment

No free allocation shall be made in respect of any electricity production, *except for cases falling within Article 10c and electricity produced from waste gases.*

(-i) in the second subparagraph, the last sentence is replaced by the following:

"No free allocation shall be made available in respect of any electricity production."

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 13

Directive 2003/87/EC

Article 10c

Text proposed by the Commission

Amendment

(13) *in Article 10c, paragraph 7 is replaced by the following:*

(13) *Article 10c is deleted ;*

"Member States shall require benefiting electricity generating installations and network operators to report, by 28 February of each year, on the implementation of their selected investments, including the balance of free allocation and investment expenditure incurred and the types of investments supported. Member States shall report on this to the Commission, and the Commission shall make such reports public.";

Or. en

1

Proposal for a directive
Article 1 – paragraph 1 – point 13 a (new)
Directive 2003/87/EC
Article 10c a (new)

Text proposed by the Commission

Amendment

(13a) the following article is inserted:

“Article 10ca

Transitional free allocation for the modernisation of the energy sector

Any allowances for transitional free allocation for the modernisation of the energy sector that have not been allocated to operators in the Member States concerned by 31 December 2023 shall be added to the total quantity of allowances that the Member State concerned receives for auctioning pursuant to Article 10(2), point (a). However, Member States may use those allowances, or some of those allowances, in accordance with Article 10d to support investments within the framework of the Modernisation Fund.”

Or. en

Proposal for a directive
Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) Since 2013, electricity producers have been obliged to purchase all the allowances they need to generate electricity. However, some Member States have retained the option of being able to continue to provide transitional free allocation for the modernisation of the energy sector in the periods from 2013 to 2020 and from 2021 to 2030. For the period from 2021 to 2030, only three Member States would continue to have that option. However, in its Special Report 18/2020 entitled ‘The EU’s Emissions Trading System: free allocation of

2

allowances needed better targeting', the European Court of Auditors found that that transitional free allocation did not contribute to the reduction of carbon intensity in the energy sector for countries eligible for such free allocation of allowances in the period from 2013 to 2020. Given the need for rapid decarbonisation, especially in the energy sector, and the limited effectiveness of that transitional free allocation, the option of transitional free allocation for the modernisation of the energy sector no longer seems fit for purpose. Therefore, that option should cease to be available and any allowances resulting from the exercise of that option which have not been allocated to operators in the Member States concerned by 31 December 2023 should be added to the total quantity of allowances that the Member State concerned receives for auctioning, or should be used to support investments within the framework of the Modernisation Fund.

Or. en

Compromise Amendment 13 USE OF REVENUES

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 51 - 55, 844- 902 (article 10(3)); 30, 533, 536, 537-541 (recital 52a and 53); 256-268 (recial 28, first part);

Proposal for a directive

Article 1 – paragraph 1 – point 11 – point b

Directive 2003/87/EC

Article 10 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

3. Member States shall determine the use of revenues generated from the auctioning of allowances, except for the revenues established as own resources in accordance with Article 311(3) TFEU and entered in the Union budget. Member States shall use their revenues generated from the auctioning of allowances referred to in paragraph 2, with the exception of the revenues used for the compensation of indirect carbon costs referred to in Article 10a(6), for one or more of the following:

[...]

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

Amendment

3. Member States shall determine the use of revenues generated from the auctioning of allowances, except for the revenues established as own resources in accordance with Article 311(3) TFEU and entered in the Union budget as general income. The revenue accruing to the Union budget shall respect the principle of universality in accordance with Article 7 of Council Decision (EU, Euratom) 2020/2053. Member States shall use their revenues generated from the auctioning of allowances referred to in paragraph 2, with the exception of the revenues used for the compensation of indirect carbon costs referred to in Article 10a(6), for one or more of the following: excluding nuclear energy-related activities and technologies.

[...]

(b) to develop renewable energies and grids for electricity transmission to meet the commitment of the Union to renewable energies and the Union targets on interconnectivity, as well as to develop other technologies that contribute to the transition to a safe and sustainable low-carbon economy, and to help to meet the commitment of the Union to increase energy efficiency, at the levels agreed in

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BUDG opinion (adopted by EPP, S&D, RE, Greens).
BUDG exclusive competence.

Secretariat to adjust after the vote based on the outcome of the compromise on indirect cost compensation

This is confusing -

on the one hand, if it is in the list it is acceptable if we say 'excluding' suggests there's something in the list that is not acceptable

If individual items are considered to potentially involve nuclear energies etc. that should be clarified in each item individually

It was in the PR like that - to me it is ok, but we can always look at it again at a later stage.

Secretariat to split off parts on nuclear in IF, MF and national revenue into separate CA.

RE

relevant legislative acts, **including the production of electricity from renewables self-consumers and renewable energy communities;**

(ba) to support the deep and staged deep renovation of buildings in accordance with Article 2(19) of Directive (EU) xxx/xxx [Recast EPBD], starting with the renovation of the worst-performing buildings;

(c) measures to avoid deforestation and increase afforestation and reforestation in developing countries that have ratified the international agreement on climate change, to transfer technologies and to facilitate adaptation to the adverse effects of climate change in these countries;

(c) measures to avoid deforestation **and support the protection and restoration of peatland, forests and other ~~marine-land~~ or ~~land~~ marine based ecosystems**, and increase **biodiversity-friendly** afforestation and reforestation in developing countries that have ratified the international agreement on climate change, to transfer technologies and to facilitate adaptation to the adverse effects of climate change in these countries;

(d) forestry sequestration in the Union;

(d) forestry **and soil** sequestration in the Union;

(db) climate adaptation in the Union;

(e) the environmentally safe capture and geological storage of CO₂, in particular from solid fossil fuel power stations and a range of industrial sectors and subsectors, including in third countries;

(e) the environmentally safe capture and geological storage of CO₂, in particular from solid fossil fuel power stations and a range of industrial sectors and subsectors, including in third countries, **and innovative technological carbon removal methods, such as Direct Air Capture (“DAC”) and its storage;**

(f) to **encourage a** shift to low-emission and public forms of transport;

(f) to **invest in and accelerate ~~in~~ the** shift to ~~low-emission, zero-emission~~ and public forms of transport **which contribute significantly to the decarbonisation of the sector, including the development of climate-friendly passenger and freight rail transport and bus services and technologies, and to finance measures to support airports' decarbonisation in accordance with Regulation xxx/xxxx on the deployment of alternative fuels infrastructure, and Regulation xxxx/xxxx**

this seems peculiar (it's not clear what is being consumed!)

is the intended meaning individual consumers who produce their own renewable energy?

unclear why 'deep' alone would not be sufficient

'the deep renovation, including where carried out in stages, of buildings'?

I would suggest changing the order given that peatland and forests relate to land eco-systems

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on ensuring a level playing field for sustainable air transport;

(h) measures intended to improve energy efficiency, district heating systems and insulation, or to provide financial support in order to address social aspects in lower- and middle-income households, including by reducing *distortive* taxes;

(h) measures intended to improve energy efficiency, district heating systems and insulation, *efficient and renewable heating and cooling systems*, or to provide financial support in order to address social aspects in lower- and middle-income households, including by reducing *in particular* taxes, *duties and charges for renewable electricity*;

(ha) to finance national climate dividend schemes with a proven positive environmental impact as documented in the annual report referred to in Article 19(2) of Regulation (EU) 2018/1999;

(i) to cover administrative expenses of the management of the EU ETS;

(i) to cover administrative expenses of the management of the EU ETS;

(j) to finance climate actions in vulnerable third countries, including the adaptation to the impacts of climate change;

(j) to finance climate actions in vulnerable third countries, including the adaptation to the impacts of climate change;

(k) to promote skill formation and reallocation of labour in order to contribute to a just transition to a *low carbon* economy, in particular in regions most affected by the transition of jobs, in close coordination with the social partners.

(k) to promote skill formation and reallocation of labour in order to contribute to a just transition to a *climate-neutral economy*, in particular in regions most affected by the transition of jobs, in close coordination with the social partners *and invest in upskilling and re-skilling of workers potentially affected by the transition*.

*By way of derogation from the first subparagraph, Member States shall use at least **10%** of the revenues generated from the auctioning of allowances for the development of public transport, in particular *climate-friendly passenger and freight rail transport and bus services and technologies*, as referred to in point (f) of the first subparagraph.*

RE 883

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

Member States shall inform the Commission as to the use of revenues and the actions taken pursuant to this paragraph in their reports submitted under Decision No 280/2004/EC.

*By way of derogation from the first subparagraph, Member States shall use at least **10 %** of the revenues generated from the auctioning of allowances to finance additional climate actions in vulnerable third countries, as referred to in point (i) of the first subparagraph.*

Member States shall be deemed to have fulfilled the provisions of this paragraph if they have in place and implement fiscal or financial support policies, including in particular in developing countries, or domestic regulatory policies, which leverage financial support, established for the purposes set out in the first subparagraph and which have a value equivalent to at least **100 %** 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).

Member States shall inform the Commission as to the use of revenues and the actions taken pursuant to this paragraph in their reports submitted under Decision No 280/2004/EC.

3a. Member States shall submit to the Commission a plan on the use of revenues together with ~~the~~ each update of the integrated national energy and climate plan referred to in Article 14(1) and (2) of Regulation (EU) 2018/1999. In accordance with Article 19(2) of Regulation (EU) 2018/1999, Member States shall also report annually to the Commission on the use of revenues and the actions taken pursuant to paragraph 3. Member States shall submit full, quality and consistent information. In particular, they shall define in their reports the meaning of 'committed' and 'disbursed' amounts, and submit rigorous financial information. If necessary to ensure compliance with those reporting

Part of the compromise on allowances phased out from

Indicate a timeframe for when this is to happen?

As I understand, the deadlines are in Article 14 of the Governance Regulation, but we could specify it should be with each update.

Greens AM 844

obligations, Member States shall earmark revenues in their national budgets.

Member States shall ensure that EU ETS revenues are spent in a manner consistent with the obligations laid down in paragraph 3 and maintain their traceability, and ensure that they are additional to national climate spending. The Commission shall take all necessary measures to ensure that Member States respect their reporting obligations under this paragraph.

3b. Member States shall use the revenues generated from auctioning of allowances, to the extent that they and are not used as own resources, referred to in 2 paragraph, in accordance with:

(a) The “do no significant harm” principle asset out in the Article 17 of Regulation (EU) 2020/852;

(b) Minimum safeguards as set out in the Article 18 of Regulation (EU) 2020/852; and

(c) The Member State’s integrated national energy and climate plan submitted in accordance with Regulation (EU) 2018/1999 and, if relevant, the Territorial Just Transition Plan prepared in accordance with laid down in Article 11 of Regulation (EU) 2021/1056.”

** Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).*

Or. en

[Proposal for a directive](#)

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it would seem better to simplify

Recital 28 (first part)

Text proposed by the Commission

(28) Achieving the increased climate ambition will require substantial public resources in the EU as well as national budgets to be dedicated to the climate transition. To complement and reinforce the substantial climate-related spending in the EU budget, all auction revenues that are not attributed to the Union budget should be used for climate-related purposes. This includes the use for financial support to address social aspects in lower- and middle-income households by reducing distortive taxes. Further, to address distributional and social effects of the transition in low-income Member States, an additional amount of 2,5 % of the Union-wide quantity of allowances from [year of entry into force of the Directive] to 2030 should be used to fund the energy transition of the Member States with a gross domestic product (GDP) per capita below 65 % of the Union average in 2016-2018, through the Modernisation Fund referred to in Article 10d of Directive 2003/87/EC.

Amendment

(28) Achieving the increased climate ambition will require substantial public **and private** resources in the EU as well as national budgets to be dedicated to the climate transition. To complement and reinforce the substantial climate-related spending in the EU budget, all auction revenues that are not attributed to the Union budget **in the form of own resources** should be used for climate-related purposes, **while ensuring a just transition and environmental integrity of taken action**. This includes the use for financial support to address social aspects in lower- and middle-income households by reducing distortive taxes. **To ensure compliance and public scrutiny, the Member States should adopt ex-ante plans on how they intend to use EU ETS revenues in accordance with their respective climate and energy targets, and they should annually report on the use of auctioning revenues in accordance with Article 19 of Regulation (EU) 2018/1999.** **Further, to address distributional and social effects of the transition in low-income Member States, an additional amount of 2,5 % of the Union-wide quantity of allowances from [year of entry into force of the Directive] to 2030 should be used to fund the energy transition of the Member States with a gross domestic product (GDP) per capita below 65 % of the Union average in 2016-2018, through the Modernisation Fund referred to in Article 10d of Directive 2003/87/EC.**

Or. en

BUDG opinion (EPP, S&D, RE, Greens)

BUDG opinion (EPP, S&D, RE, Greens)

Second part addressed in CA 10 on Modernisation Fund

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Proposal for a directive
Recital 28 a (new)

Text proposed by the Commission

Amendment

A well-defined share of the auctioning revenue of the reformed and extended ETS should be used as an own resource to finance the EU budget as general income, in accordance with the legally binding Interinstitutional Agreement of 16 December 2020¹ that contains a roadmap towards the introduction of a basket of new own resources, including, inter alia, own resources based on the ETS and based on the Carbon Border Adjustment Mechanism (CBAM) and Pillar One of the OECD/G20 agreement. Under that Agreement, such new own resources are envisaged to be introduced by 1 January 2023. As such, new own resources will link the EU budget with the Union's policy priorities such as the European Green Deal and the Union's contribution to fair taxation, thus add value and contribute to the climate mainstreaming objectives, the repayment of NGEU debts and the resilience of the EU budget as a tool for investments and guarantees that respect the 'do no significant harm' principle and the fundamental values enshrined in Article 2 of the Treaty on European Union.

¹Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources; (OJ L 433I, 22.12.2020, p. 28).

BUDG opinion (EPP, S&D, RE, Greens)

We have not revised the BUDG opinion amendments.

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Name für Dokument-Eigenschaft. EN

Proposal for a directive
Recital 28 b (new)

Text proposed by the Commission

Amendment

In accordance with the Council Decision (EU, Euratom) 2020/2053, the Union is legally bound to repay all liabilities incurred by the exceptional and temporary empowerment to borrow funds under Next Generation EU by 31 December 2058 at the latest. Therefore, in order to respect the legally binding Interinstitutional Agreement and its roadmap for the introduction of a basket of new own resources destined to repay the EU's debt, a share of the ETS revenues should accrue to the EU budget to help cover the borrowing costs as enshrined in the [Council Decision 2021/XXXX amending Decision (EU, Euratom) 2020/2053 on the system of own resources of the European Union] and prevent substantial decreases that would jeopardize EU programmes in future MFFs.

Proposal for a directive

Recital 28 c (new)

Text proposed by the Commission

Amendment

The substantial amounts of revenue generated by the reinforced Emissions Trading System, which Member States, apart for the share attributed to the EU budget, retain, should be used for purposes of the climate transition. However, the broader scope of application and the more diverse array of interventions should not be to the detriment of the unity, effectiveness, integrity and democratic control of the EU general budget.

Proposal for a directive

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BUDG opinion (EPP, S&D, RE, Greens)

BUDG opinion (EPP, S&D, RE, Greens)

Note: part has been left out as it would seem to contradict the broadly shared ambition to set up an Ocean Fund "Therefore, the ETS directive should not contain any provisions which would result in creating new additional intergovernmental funds instead of introducing them in the EU budget in accordance with the unity principle, thus precluding a share of the auctioning revenue from being defined as an own resource."

Recital 52 b (new)

Text proposed by the Commission

Amendment

(52a) Since the transport sector is currently the only sector that has failed to deliver any reductions of greenhouse gas emissions, a significant level of investment in sustainable transport options is required to achieve the Union climate goals and support a modal shift to environmentally friendly forms of transport. Therefore, at least ~~15~~ 10 % of the expected revenues from the increased trading of emissions to arise as a result of the extension of the scope of the EU ETS and the introduction of a new EU ETS for heating, transport and other fuels pursuant to this Directive, including ~~15~~ 10 % of the national revenues to be allocated by Member States as well as ~~15~~ 10 % of the revenues under the Innovation Fund, should be allocated to the further development of public transport, in particular climate friendly railway and bus systems.

Or. en

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Cluster 2: Maritime ETS + MRV (CA14, 15, 16, 17, 18)

Compromise Amendment 14
ETS Maritime - Scope: GHG covered, ships covered (Art. 3a ETS; Art 1+2+3 MRV Annex I)
EPP, S&D, RE, Greens, ID, ECR, The Left
 Compromise amendment replacing Amendments 7, 46, 707, 689-698, 699, 701-702; 704-709 (article 3g(1)) 5, 37, 110, 684-687, 751, 1587, 1591, 1606, 1316, 1326, 1327, 1631, 1632, 1661, 1662, 1665; 192-193 (recital 14a); 194-196 (recital 15); 632-635 (recital 67)

GHG COVERED

Proposal for a directive
Article 3 – paragraph 1 – point -1 (new)
Regulation (EU) 2015/757
Title

Text proposed by the Commission

Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC"

Proposal for a directive
Article 3 – paragraph 1 – point -1 a (new)
Regulation (EU) 2015/757

Text proposed by the Commission

Proposal for a directive
Article 3 – paragraph 1 – point -1 b (new)
Regulation (EU) 2015/757
Article 1

Amendment

"(-I) the title is replaced by the following:

Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of **greenhouse gas** emissions from maritime transport, and amending Directive 2009/16/EC"

Amendment

(-1a) Throughout the Regulation, [except in the cases referred to in Article 5(1) of and Annex I to the Regulation,] the term 'CO₂' is replaced by 'greenhouse gas' and any necessary grammatical changes are made.

Kommentiert [LC1]: DLA addition: alignment of replacement of CO2 by GHG across MRV Regulation
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Text proposed by the Commission

Amendment

Article 1 - Subject matter

(-1b) Article 1 is replaced by the following:

Article 1 - Subject matter

This Regulation lays down rules for the accurate monitoring, reporting and verification of *carbon dioxide (CO2)* emissions and of other relevant information from ships arriving at, within or departing from ports under the jurisdiction of a Member State, in order to promote the reduction of *CO2* emissions from maritime transport in a cost effective manner.

This Regulation lays down rules for the accurate monitoring, reporting and verification of *greenhouse gas (GHG)* emissions and of other relevant information from ships arriving at, within or departing from ports under the jurisdiction of a Member State, in order to promote the reduction of *such* emissions from maritime transport in a cost effective manner."

[This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.]

Or. en

Proposal for a directive

Article 3 – paragraph 1 – point -1 c (new)

Regulation (EU) 2015/757

Article 3 – paragraph 1 – point -a-

Present text

Amendment

(a) ‘CO2 emissions’ means the release of CO2 into the atmosphere *by ships*;

(-1-c) In Article 3, point (a) is replaced by the following:

“(a) ‘greenhouse gas emissions’ means the release of *carbon dioxide (CO2), methane (CH4) and nitrous oxides (N2O)* into the atmosphere;”

Proposal for a directive

Article 3 – paragraph 1 – point 3 a (new)

Regulation (EU) 2015/757

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(3a) In Article 5, the following paragraph is added:

2a By 1 July 2023, the Commission shall adopt delegated acts in accordance

hat formatiert: Hervorheben

Kommentiert [LC2]: DLA/Legal Service to introduce comment/clarification that this amendment (as regards replacement of ‘CO2’ by ‘greenhouse gas’) applies horizontally throughout MRV.

Kommentiert [MD3R2]: This is already covered by point (-1a) above, but we insert the standard instruction brackets as well.

Kommentiert [MD4]: This short form is not used elsewhere in the EU ETS Directive or the MRV Regulation.

hat formatiert: Englisch (Vereinigtes Königreich), Hervorheben

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Kommentiert [MD5]: LS advice: The MRV sets out the methods for CO2 in the basic act, only AMs are done by DA.

The discretion of COM in relation to the other GHG should be framed in the basic act by adding at least criteria or conditions to be applied when elaborating the methods. Currently, the CA contains no criteria and leaves full discretion to COM. Apart of a political issue this is also important from a legal perspective for legal certainty purposes and to allow Court to assess whether COM has applied its DA powers correctly.

If not inserted now, the need for this is sth to keep in mind for the negotiations.

Kommentiert [MD6R5]: we do not have the technical knowledge to invent new criteria or conditions, but we could frame it by referring to the methods for monitoring CO2 emissions set out in Annex I, with the adjustments necessary due to the nature of the emissions.

with Article 23 in order to supplement this Regulation by specifying the methods for determining and reporting greenhouse gas emissions other than CO₂. **Such methods shall be based on the same principles as the methods for monitoring CO₂ emissions as set out in Annex I, with the adjustments necessary due to the nature of the relevant greenhouse gas emissions.**”;

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- hat formatiert: Tiefgestellt, Hervorheben
- hat formatiert: Hervorheben
- hat formatiert: Hervorheben

Or. en

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

Article 3gb – paragraph 1

Text proposed by the Commission

Amendment

In respect of emissions from maritime transport activities listed in Annex I, the administering authority shall ensure that a shipping company under its responsibility monitors and reports the relevant parameters during a reporting period, and submits aggregated emissions data at company level to the administering authority in line with Chapter II of Regulation (EU) 2015/757 of the European Parliament and of the Council (*).

In respect of emissions from maritime transport activities listed in Annex I, the administering authority shall ensure that a shipping company under its responsibility monitors and reports the relevant parameters during a reporting period, and submits aggregated emissions data at company level to the administering authority in line with Chapter II of Regulation (EU) 2015/757 of the European Parliament and of the Council (*).

(*) Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

(*) Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

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Or. en

Proposal for a directive
Annex – paragraph 1 - point c – point vii
 Directive 2003/87/EC
 Annex I – table – row 30

Text proposed by the Commission

“Maritime transport

Greenhouse gases covered by Regulation (EU) 2015/757”;

Maritime transport activities of ships covered by Regulation (EU) 2015/757 of the European Parliament and of the Council performing voyages with the purpose of transporting passengers or cargo for commercial purposes

Amendment

“Maritime transport

Carbon dioxide (CO₂), nitrous oxides (N₂O) and methane (CH₄) in line with Regulation (EU) 2015/757”

Maritime transport activities of ships covered by Regulation (EU) 2015/757 of the European Parliament and of the Council performing voyages with the purpose of transporting passengers or cargo for commercial purposes

Or. en

SHIPS COVERED

Proposal for a directive Article 3 – paragraph 1 – point -1 a (new) Regulation (EU) 2015/757 MRV Article 2 – paragraph 1

Text proposed by the Commission

Amendment

(-1a) in Article 2, paragraph 1 is replaced by the following:

1. This Regulation applies to ships above 5 000 gross tonnage in respect of CO₂ emissions released during their voyages from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State.

“1. This Regulation applies to ships of 5 000 gross tonnage and above in respect of greenhouse gas emissions released during their voyages from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a

Kommentiert [MD7]: The Annex is the correct place to list the greenhouse gases covered by EU ETS in relation to maritime transport.

In the Articles, we should just refer to “emissions” since that defined term refers to the greenhouse gases that are specified in respect of maritime transport in the Annex.

hat formatiert: Tiefgestellt

Kommentiert [LC8]: Compromise proposal on 400Gt: 1) MRV inclusion from 2024 2) MRV inclusion based on 'MRV-light' as proposed by T&E (requirement only to declare data required for future ETS inclusion (type of fuel, its carbon factor and energy density) while lowering administrative burden on other points. 3) ETS inclusion from year 2028

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Formatierte Tabelle

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Member State.

1a. From 1 January 2024, this Regulation shall apply to ships of 400 gross tonnage and above in respect of greenhouse gas GHG emissions released during their voyages from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within between ports of call under the jurisdiction of a Member State. However, by way of derogation, ships of 400 gross tonnage and above but of less than up to 5 000 gross tonnage shall only be required to report the information which is relevant required for the future inclusion of such ships within the scope of the EU ETS by 1 January 2028.”;

Kommentiert [LC9]: Compromise part 1: MRV inclusion from 2024 to collect data

hat formatiert: Nicht Hervorheben

hat formatiert: Nicht Hervorheben

Kommentiert [OP10]: in the future

hat formatiert: Nicht Hervorheben

Kommentiert [OP11]: it would seem better to avoid 'last' since it's unclear how it should be understood

hat formatiert: Nicht Hervorheben

Kommentiert [OP12]: contrast with point 4 - where we

hat formatiert: Nicht Hervorheben

Kommentiert [OP13]: ditto - 'next' should also be avoid

hat formatiert: Nicht Hervorheben

Kommentiert [MD14]: LS comment

Kommentiert [MD15R14]: We could also keep "by way

hat formatiert

Kommentiert [MD16]: Alignment recital

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Kommentiert [LC17]: Compromise part 2: light MRV fo

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Formatierte Tabelle

Kommentiert [MD18]: Appropriate place would be to

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Kommentiert [MD19]: From a legal point of view, it is

Kommentiert [MD20]: LS comment

Kommentiert [MD21R20]: Drafting proposal included.

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Or. en

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

Text proposed by the Commission

Articles 3b to 3f shall apply to the allocation and issue of allowances in respect of the aviation activities listed in Annex I. Articles 3g to 3ge shall apply in respect of the maritime transport activities listed in Annex I.

Amendment

Articles 3b to 3f shall apply to the allocation and issue of allowances in respect of the aviation activities listed in Annex I. Articles 3g to 3ge shall apply to the allocation and issue of allowances in respect of the maritime transport activities listed in Annex I, in respect of carbon oxide (CO₂), methane (CH₄) and nitrous oxides (N₂O) emissions from ships above 5 000 gross tonnage.

From 1 January 2028, Articles 3g to 3ge shall apply to the allocation and issue of allowances in respect of the maritime transport activities listed in Annex I carried out by ships of above 400 gross tonnage and above. By [that date], on the basis of an assessment, the Commission shall carry out an assessment of the level-playing field for all ships and the

avoidance of possible unwanted adverse effects on greenhouse gas GHG emissions resulting from the possible replacement of ships above 5 000 gross tonnage by several oneships of a gross tonnage below thatis threshold in the absence of lowering the threshold. The Commission shall, where appropriate, accompany that assessment with a legislative proposal to amend this Directive.

By 31 December 2024, the Commission, supported by the European Scientific Advisory Board on Climate Change referred in Article 3 of Regulation (EU) 2021/1119, shall assess, and report to the European Parliament and to the Council on the impact on the global climate of greenhouse gas emissions other than CO₂, CH₄ and N₂O and of particles with a global warming potential, from ships arriving at, within or departing from ports under the jurisdiction of a Member State. That report shall be accompanied, where appropriate, by a legislative proposal to address the question of how to deal with such emissions and particles.

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Kommentiert [MD22]: ambiguous what is to be read with "impact of" and what to be read with "other than".

Since CO₂, CH₄ and N₂O with the EP amendments are already covered by the EU ETS Directive and the MRV Regulation, the idea would seem to report on other greenhouse gas emissions than those three and on particles with a global warming potential. In my understanding, such particles are also not greenhouse gasses.

Text adapted to this understanding.

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Kommentiert [MD23]: The recital talks about "on the inclusion of those emissions and particles from maritime transport activities in the scope of the EU ETS" so consider further alignment.

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Or. en

Proposal for a directive
Article 3 – paragraph 1 – point -1 a (new)
 Regulation (EU) 2015/757
 Article 2 – paragraph 2

Present text

2. This Regulation does not apply to warships, naval auxiliaries, fish-catching or fish-processing ships, wooden ships of a primitive build, ships not propelled by mechanical means, or **government ships used for non-commercial purposes**.

Amendment

2. This Regulation does not apply to warships, naval auxiliaries, fish-catching or fish-processing ships, wooden ships of a primitive build, ships not propelled by mechanical means, government ships used for non-commercial purposes **or ships for civil protection and search and rescue purposes**.

Proposal for a directive
Article 3 – paragraph 1 – point -1 b (new)
 Regulation (EU) 2015/757
 Article 3 – paragraph 1 – point c

Present text

(c) ‘voyage’ means any movement of a ship that originates from or terminates in a port of call and that serves the purpose of transporting passengers or cargo for commercial purposes;

Amendment

(-1b) in Article 3, point (c) is replaced by the following:

"(c) ‘voyage’ means any movement of a ship that originates from or terminates in a port of call **or structure situated on the continental shelf of a Member State, such as offshore supply services**, and that serves the purpose of transporting passengers or cargo for commercial purposes **or performing service activities for offshore installations**;"

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

Text proposed by the Commission

Amendment

(va) ‘voyage’ means **any voyage as defined in Article 3, point (c), of Regulation (EU) 2015/757** ~~MRV Regulation~~;

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Proposal for a directive
Annex I – paragraph 1 – point c – point vii
 Directive 2003/87/EU
 Annex I – table – last row – column 1

Text proposed by the Commission

Amendment

Maritime transport

Maritime transport

Maritime transport activities of ships

Maritime transport activities of ships

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Kommentiert [MD24]: To be included in the amendment above dealing with the whole “last row”, or the amendment above should be split so it only deals with column 2.

EN

covered by Regulation (EU) 2015/757 of the European Parliament and of the Council performing voyages with the purpose of transporting passengers *or* cargo for commercial purposes.

covered by Regulation (EU) 2015/757 of the European Parliament and of the Council performing voyages with the purpose of transporting passengers, cargo for commercial purposes *and, from 2024, performing service activities for offshore installations*

Or. en

RECITALS

Proposal for a directive Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) International maritime transport is the only means of transportation that has not been included in the Union's commitment to reduce greenhouse gas emissions, despite the fact that the European Parliament has repeatedly called for all sectors of the economy to contribute to the joint effort to complete the transition to net-zero greenhouse gas emissions as soon as possible and by 2050 at the latest, in line with the Union's commitments under the Paris Agreement. CO₂ remains the dominant cause of maritime transport's climate impact when calculated on a global warming-potential 100-year basis, accounting for 98 %, or, if black carbon is included, 91 %, of total international greenhouse gas emissions in CO₂ equivalents. However, according to a report entitled 'Fourth IMO Greenhouse Gas Study' of the International Maritime Organization (IMO), published in 2020, there was an 87 % increase of methane (CH₄) over the period from 2012 to 2018. Therefore, and in line with the amendments adopted by the European Parliament on 16 September 2020 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2015/757, in order to take appropriate account of the global data collection system for ship fuel oil

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consumption data, both CO₂ and CH₄ emissions, as well as nitrous oxides (N₂O), should be included in the extension of the EU ETS to maritime transport activities as well as nitrous oxides (N₂O). Consequently, an administering authority should ensure that shipping companies monitor and report aggregated emissions data including the release of carbon dioxide (CO₂), methane (CH₄) and nitrous oxides (N₂O) to ensure consistency with Regulation (EU) .../... [FuelEU Maritime]. Furthermore, the Commission should by 31 December 2024 assess, and report to the European Parliament and to the Council on the impact on the global climate of greenhouse gas emissions other than CO₂, N₂O and CH₄ and of particles with a global warming potential, and, where appropriate, submit a legislative proposal on the inclusion of these emissions and particles from maritime transport activities in the scope of the EU ETS two years after the entry into force of this Directive.

Or. en

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- Kommentiert [MD25]: cf. comment above.
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- Kommentiert [MD26]: The article only talks about “to address the question of how to deal with such emissions and particles” and does not set a two years deadline, so consider further alignment.
- The deadline is unusual when there already is a deadline for the assessment and report.
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**Proposal for a directive
Recital 15**

Text proposed by the Commission

(15) In 2013, the Commission adopted a strategy for progressively integrating maritime emissions into the Union's policy for reducing greenhouse gas emissions. As a first step in this approach, the Union established a system to monitor, report and verify emissions from maritime transport in Regulation (EU) 2015/757 of the European Parliament and of the Council⁴⁷, to be followed by the laying down of reduction targets for the maritime sector and the application of a market based measure. In line with the commitment of the co-legislators expressed in Directive (EU) 2018/410 of the European Parliament and of the Council⁴⁸, action by the

Amendment

(15) In 2013, the Commission adopted a strategy for progressively integrating maritime emissions into the Union's policy for reducing greenhouse gas emissions. As a first step in this approach, the Union established a system to monitor, report and verify emissions from maritime transport in Regulation (EU) 2015/757 of the European Parliament and of the Council⁴⁷, to be followed by the laying down of reduction targets for the maritime sector and the application of a market based measure. In line with the commitment of the co-legislators expressed in Directive (EU) 2018/410 of the European Parliament and of the Council⁴⁸, action by the

International Maritime Organization (IMO) or the Union should start from 2023, including preparatory work on adoption and implementation of a measure ensuring that the sector duly contributes to the efforts needed to achieve the objectives agreed under the Paris Agreement and due consideration being given by all stakeholders.

International Maritime Organization (IMO) or the Union should start from 2023, including preparatory work on adoption and implementation of a measure ensuring that the sector duly contributes to the efforts needed to achieve the objectives agreed under the Paris Agreement and due consideration being given by all stakeholders. ***In order to increase the environmental effectiveness of Union EU measures and avoid unfair competition and incentives for circumvention, the scope of Regulation (EU) 2015/757 should be amended to cover ships of 400 with a gross tonnage and above 400 from 1 January 2027~~84~~ onwards. In order to ensure there is a proportionate administrative burden, for ships of less than below 5 000 gross tonnage operators should shall only be required to report the information which is relevant for future inclusion in the scope of the EU ETS, in particular notably the type of fuel, its carbon factor and energy density.***

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Kommentiert [LC27]: To be aligned with agreement on Article above

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Kommentiert [OP28]: unclear what is meant by 'energy density' 'intensity'?

⁴⁷ Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

⁴⁷ Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

⁴⁸ Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p. 3).

⁴⁸ Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p. 3).

Or. en

**Proposal for a directive
Recital 67**

Text proposed by the Commission

Amendment

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(67) It is necessary to amend Regulation (EU) 2015/757 to take into account the inclusion of the maritime transport sector in the EU ETS. Regulation (EU) 2015/757 should be amended to oblige companies to report aggregated emissions data at company level and to submit for approval their verified monitoring plans and aggregated emissions data at company level to the responsible administering authority. In addition, the Commission should be empowered to adopt delegated acts to amend the methods for monitoring CO₂ emissions and the rules on monitoring, as well as any other relevant information set out in Regulation (EU) 2015/757, to ensure the effective functioning of the EU ETS at administrative level and to supplement Regulation (EU) 2015/757 with the rules for the approval of monitoring plans and changes thereof by administering authorities, with the rules for the monitoring, reporting and submission of the aggregated emissions data at company level and with the rules for the verification of the aggregated emissions data at company level and for the issuance of a verification report in respect of the aggregated emissions data at company level. The data monitored, reported and verified under Regulation (EU) 2015/757 might also be used for the purpose of compliance with other Union law requiring the monitoring, reporting and verification of the same ship information.

(67) It is necessary to amend Regulation (EU) 2015/757 to take into account the inclusion of the maritime transport sector in the EU ETS. Regulation (EU) 2015/757 should be amended to oblige companies to report aggregated emissions data at company level and to submit for approval their verified monitoring plans and aggregated emissions data at company level to the responsible administering authority. In addition, the Commission should be empowered to adopt delegated acts to amend the methods for monitoring CO₂, *CH₄* and *N₂O* emissions and the rules on monitoring, as well as any other relevant information set out in Regulation (EU) 2015/757, to ensure the effective functioning of the EU ETS at administrative level and to supplement Regulation (EU) 2015/757 with the rules for the approval of monitoring plans and changes thereof by administering authorities, with the rules for the monitoring, reporting and submission of the aggregated emissions data at company level and with the rules for the verification of the aggregated emissions data at company level and for the issuance of a verification report in respect of the aggregated emissions data at company level. The data monitored, reported and verified under Regulation (EU) 2015/757 might also be used for the purpose of compliance with other Union law requiring the monitoring, reporting and verification of the same ship information.

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Or. en

Compromise Amendment 15
ETS Maritime - ICE CLASS SHIPS AND OUTERMOST REGIONS (various articles) |
EPP, S&D, RE, Greens, ID, ECR, The Left
Compromise amendment replacing Amendments 1309-1317 (article 12(3)(c) ice ships), 1318-1324 (article 12(3)(2a) ice ships); 1603-1605, 1607-1609, 1610-1615, 1616, 1618, 1619, 1621-1626, 1627, 1629, 1707-1709 (on ice ships); 228, 229, 232, 238, 239 (recital 20a)

Proposal for a directive

Article 1 – paragraph 1 – point 15 – point c

Directive 2003/87/EC

Article 12 – paragraph 3 – subparagraph 1 – point c

Text proposed by the Commission

(c) each shipping company surrenders a number of allowances equal to its total emissions during the preceding calendar year, as verified in accordance with Article 3gc.

Amendment

(c) each shipping company surrenders a number of allowances equal to its total emissions during the preceding calendar year, as verified in accordance with Article 3gc.

By way of derogation from point (c) of the first subparagraph, until 31 December 2029, shipping companies may surrender fewer allowances on the basis of ~~ships' ice class~~ of their ships or the fact that ~~ships~~ navigation in ice conditions or both in accordance with Annex Va.

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Kommentiert [MD29]: Alignment (one way or the other)

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Or. en

Proposal for a directive

Article 3 – paragraph 1 – point 4 – point -a (new)

Regulation (EU) 2015/757

Article 6 – paragraph 4

Present text

4. The monitoring plan *may* also contain information on the ice class of the ship and/or the procedures, responsibilities, formulae and data sources for determining and recording the distance travelled and the time spent at sea when navigating through ice.

Amendment

(-a) in Article 6, paragraph 4 is replaced by the following:

"4. For shipping companies aiming to surrender fewer emission allowances on the basis of their ships' ice class or their ships' navigation in ice conditions or both under Directive 2003/87/EC the monitoring plan shall also contain information on the ice class of the ship and/or the procedures, responsibilities, formulae and data sources for determining and recording the distance travelled and the time spent at sea when navigating through ice."

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Or. en

Proposal for a directive
Article 3 – paragraph 1 – point 5 a (new)
 Regulation (EU) 2015/757
 Article 9 – paragraph 1 – subparagraph 2

Present text

Companies may also monitor information relating to the ship's ice class and to navigation **through ice**, where applicable.

Amendment

(5a) in Article 9(1), the second subparagraph is replaced by the following:

"Companies may also monitor information relating to the ship's ice class and to navigation **in ice conditions**, where applicable. **For shipping companies wishing to surrender fewer emission allowances on the basis of their ships' ice class or navigation in ice conditions or both under Directive 2003/87/EC, monitoring shall include information on whether the voyage involved navigation in ice conditions, including the information on the date, time, and location of the navigation in ice conditions, the method used to measure fuel oil consumption, fuel consumption and the fuel's emission factor for each type of fuel when navigating in ice conditions, and the distance travelled when navigating in ice conditions shall also be provided. Information on whether the voyage occurs between ports under the jurisdiction of a Member State's jurisdiction, departs from a port under the jurisdiction of a Member State's jurisdiction or arrives from a port under the jurisdiction of a Member State's jurisdiction shall also be provided.**"

Kommentiert [OP30]: or 'intend'?

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Or. en

Proposal for a directive
Article 3 – paragraph 1 – point 6 a (new)
 Regulation (EU) 2015/757
 Article 10 – paragraph 2

Present text

Companies may monitor information relating to the ship's ice class and to navigation through ice, where applicable.

Amendment

(6a) in Article 10, the second paragraph is replaced by the following:

"Companies may monitor information relating to the ship's ice class and to navigation through ice, where applicable.

For shipping companies ~~arriving~~ to surrender fewer emission allowances on the basis of their ships' ice class or navigation in ice conditions or both under Directive 2003/87/EC, the monitoring shall include aggregated ~~Greenhouse Gas~~ emissions from all voyages that involved navigating in ice conditions and the total distance travelled during voyages that involved navigating in ice conditions.";

- Kommentiert [OP31]: or 'intend'?
- hat formatiert: Hervorheben
- Kommentiert [MD32]: Alignment (one way or the other)
- hat formatiert: Englisch (Vereinigtes Königreich)
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Proposal for a directive
Annex I – point 4 a (new)
Directive 2003/87/EC
Annex V a (new)

Text proposed by the Commission

Amendment

(4a) the following annex is inserted in Directive 2003/87/EC:

"Annex Va

Option to surrender a readjusted amount of allowances for ice class ships

The readjusted amount of emission allowances to be surrendered for ice class ships shall correspond to a readjusted amount of emissions that is calculated based on the formula presented in this ~~Annex~~ annex. The readjusted amount of emissions shall take into account the technical characteristics that increase emissions of ships belonging to a Finnish-Swedish ice class IA or IA Super or ~~an~~ equivalent ice class during navigation at

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all times and the further increase of emissions due to navigating in ice conditions.

Readjusted amount of emissions allowances to be surrendered annually mean readjusted amount of annual emissions CO_{2R} .

The annual total emission CO_{2T} within the scope of the EU ETS are calculated on the basis of reporting under Regulation (EU) 2015/757 in MRV as follows:

$$CO_{2T} = CO_{2T \text{ voyages between MS}} + CO_{2B} + 0.5 \cdot (CO_{2 \text{ voyages from MS}} + CO_{2 \text{ voyages to MS}}), \quad (1)$$

where $CO_{2T \text{ voyages between MS}}$ denotes the aggregated CO_2 emissions from all voyages between ports under the jurisdiction of a Member State's jurisdiction, CO_{2B} the emissions which occurred within ports under the jurisdiction of a Member State's jurisdiction at berth, $CO_{2eq \text{ voyages from MS}}$ the aggregated CO_2 emissions from all voyages which departed from ports under the jurisdiction of a Member State's jurisdiction and $CO_{2 \text{ voyages to MS}}$ the aggregated CO_2 emissions from all voyages to ports under the jurisdiction of a Member State's jurisdiction.

Similarly, the annual total emissions of an ice-class ship when navigating in ice conditions within the scope of the EU ETS proposed Emissions Trading Directive for maritime transport CO_{2eI} are calculated on the basis of reporting under Regulation (EU) 2015/757 in MRV as follows:

$$CO_{2eI} = CO_{2eqI \text{ voyages between MS}} + 0.5 \cdot (CO_{2eqI \text{ voyages from MS}} + CO_{2eqI \text{ voyages to MS}}),$$

Kommentiert [OP33]: this might have to be changed to 'shall' - but 'are' could also work as this is a technical instruction

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(2)

where $CO_{2eq I}$ voyages between MS denotes the aggregated CO_2 emissions of an ice-classed ship when navigating in ice conditions between ports under the jurisdiction of a Member State's jurisdiction, $CO_{2eq I}$ voyages from MS emissions of an ice-classed ship when navigating in ice conditions from all voyages which departed from ports under the jurisdiction of a Member State's jurisdiction and $CO_{2eq I}$ voyages to MS emissions of an ice-classed ship when navigating in ice conditions from all voyages to ports under the jurisdiction of a Member State's jurisdiction.

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The annual total distance travelled within the scope of the EU ETS proposed Emissions Trading Directive for maritime transport is calculated as follows:

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$$D_T = D_{T \text{ voyages between MS}} + 0.5 \cdot (D_{T \text{ voyages from MS}} + D_{T \text{ voyages to MS}}),$$

(3)

where D_T voyages between MS denotes the aggregated distance from all voyages between ports under the jurisdiction of a Member State's jurisdiction, D_T voyages from MS the aggregated distance from all voyages which departed from ports under the jurisdiction of a Member State's jurisdiction and D_T voyages to MS the aggregated distance from all voyages to ports under the jurisdiction of a Member State's jurisdiction.

Kommentiert [OP34]: 'from' doesn't seem correct here

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The aggregated distance travelled when navigating in ice conditions within the scope of the EU ETS proposed Emissions Trading Directive for maritime transport is calculated as follows:

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$$D_I = D_{I \text{ voyages between MS}} + 0.5 \cdot (D_{I \text{ voyages from MS}} + D_{I \text{ voyages to MS}}),$$

(4)

where $D_{T \text{ voyages between MS}}$ denotes the aggregated distance sailed in ice conditions from all voyages between ports under the jurisdiction of a Member State jurisdiction, $D_{T \text{ voyages from MS}}$ the aggregated distance sailed in ice conditions from all voyages which departed from ports under the jurisdiction of a Member State MS jurisdiction and $D_{T \text{ voyages to MS}}$ the aggregated distance sailed in ice conditions from all voyages to ports under the jurisdiction of a Member State MS jurisdiction.

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The readjusted amount of annual emissions $CO_{2eq R}$ are calculated as follows

$$CO_{2R} = CO_{2T} - CO_{2TF} - CO_{2NI}, \quad (5)$$

where CO_{2TF} denotes the increase in annual emissions due to technical characteristics of ships having a Finnish-Swedish ice class IA or IA Super or IN equivalent ice class and CO_{2NI} the increase in annual emissions of an ice-class IN ship due to navigating in ice conditions.

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The increase in annual emissions due to technical characteristics of ships having a Finnish-Swedish ice class IA or IA Super or IN equivalent ice class CO_{2TF} is calculated as follows:

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$$CO_{2TF} = 0.05 \times (CO_{2T} - CO_{2B} - CO_{2NI}). \quad (6)$$

The increase in annual emissions due to navigating in ice conditions is calculated as follows:

$$CO_{2NI} = CO_{2I} - CO_{2RI}, \quad (7)$$

where the readjusted annual emissions for

navigating in ice conditions CO_{2RI} are

$$CO_{2RI} = D_I \times \left(\frac{CO_{2eq}}{D} \right)_{open\ water}, \quad (8)$$

where $\left(\frac{CO_{2eq}}{D} \right)_{OW}$ the emissions for voyages per distance travelled in open water. The latter is defined as follows:

$$\left(\frac{CO_2}{D} \right)_{OW} = \frac{CO_{2T} - CO_{2B} - CO_{2I}}{D_T - D_I}. \quad (9)$$

List of all symbols:

CO_{2T} annual total emissions within the geographical scope of the EU ETS

CO_{2T} voyages between MS aggregated CO_2 emissions from all voyages between ports under the jurisdiction of a Member State's jurisdiction,

CO_{2B} emissions which occurred within ports under the jurisdiction of a Member State's jurisdiction at berth

CO_{2eq} voyages from MS aggregated CO_2 emissions from all voyages which departed from ports under the jurisdiction of a Member State's jurisdiction

CO_2 voyages to MS aggregated CO_2 emissions from all voyages to ports under the jurisdiction of a Member State's jurisdiction

D_T annual total distance travelled within the scope of the EU ETS

D_T voyages between MS aggregate distance from all voyages between ports under the jurisdiction of a Member State's jurisdiction

D_T voyages from MS aggregated distance from all voyages which departed from ports under the jurisdiction of a Member State's MS jurisdiction

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$D_{T \text{ voyages to MS}}$ aggregated distance sailed in ice conditions from all voyages to ports under the jurisdiction of a Member State MS jurisdiction.

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D_I aggregated distance travelled when navigating in ice conditions within the geographical scope of the EU ETS

$D_{T \text{ voyages between MS}}$ aggregated distance sailed in ice conditions from all voyages between ports under the jurisdiction of a Member State MS jurisdiction

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$D_{T \text{ voyages from MS}}$ aggregated distance sailed in ice conditions from all voyages which departed from ports under the jurisdiction of a Member State MS jurisdiction

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$D_{T \text{ voyages to MS}}$ aggregated distance sailed in ice conditions from all voyages to ports under the jurisdiction of a Member State MS jurisdiction

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CO_{2I} annual emissions of an ice-class ship when navigating in ice conditions

CO_{2NI} increase of annual emissions of an ice-class ship due to navigating in ice conditions

CO_{2R} readjusted annual emissions

CO_{2RI} readjusted annual emissions for navigating in ice conditions

CO_{2TF} annual emissions due to technical characteristics of a ship with a Finnish-Swedish ice class IA or IA Super or an equivalent ice class on average, compared to ships designed to sail only in open water

$\left(\frac{CO_{2eq}}{dist}\right)_{OW}$ annual average of emissions for distance travelled in open water only

Or. en

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission

Amendment

*(17a) Renewing fleets of ice-class ships and developing innovative technology that reduces the emissions of such ships while sailing in winter conditions will take time and require financial support. Currently, the design enabling ice-class ships to sail in ice conditions, leads to such ships producing more emissions both in open water and when navigating in ice conditions than ships of similar size designed for sailing only in open water. On average, ice-class ships, when sailing in open water, consume about 2-5 % more fuel than ships of similar size designed for sailing in open water only. Therefore, a flag-neutral method to take into account ice conditions in northern parts of the Union should be implemented under this Directive allowing for a reduction of allowances to be surrendered by shipping companies on the basis of **their ships' ice class, or their ships' navigation in ice conditions** or both until 31 December 2029. As a result, from 2030 onwards, shipping companies should be liable to surrender allowances corresponding to one hundred percent (100 %) of verified emissions reported for each respective year notwithstanding ships' ice class and navigation in ice **conditions**. There should also be specific support for innovation regarding the decarbonisation of ice-class ships through an Ocean Fund.*

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Kommentiert [MD35]: Alignment (one way or the other)

Kommentiert [MD36]: Alignment (one way or the other)

Or. en

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Proposal for a directive

Article 1 – paragraph 1 – point 15 – point c

Directive 2003/87/EC

Article 12 – paragraph 3 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

By way of derogation from point (c) of the first subparagraph, until 31 December 2029, shipping companies may surrender ~~25%~~ fewer allowances in respect of emissions ~~taking place~~ that occur until 2030 from voyages between a port located in an outermost region of a Member State and a port located in the same Member State outside that outermost region. By 31 December 2029, the Commission shall assess, and present a report to the European Parliament and the Council on the impact of ending this derogation for maritime transport to and from outermost regions.

Kommentiert [LC37]: Outermost regions - compromise proposal: similar approach as for ice-class ships. Partial derogation with sunset clause.

Formatierte Tabelle

Kommentiert [OP38]: this implies until 31 December 2030?

hat formatiert: Hervorheben

Compromise Amendment 16

ETS Maritime - Commercial operator (new)

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 35, 660-663 (article 3 definitions), 44, 757, 760, 762, 763, 764 (article 3gda contractual agreement), 9, 226, 227 (recital 20)

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point d

Directive 2003/87/EC

Article 3 – paragraph 1 – point v

Text proposed by the Commission

(v) ‘shipping company’ means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the shipowner and that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Management Code for

Amendment

(v) ‘shipping company’ means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the shipowner and that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Management Code for

the Safe Operation of Ships and for Pollution Prevention, set out in Annex I to Regulation (EC) No 336/2006 of the European Parliament and of the Council(*);

(*) Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (OJ L 64, 4.3.2006, p. 1).

the Safe Operation of Ships and for Pollution Prevention, set out in Annex I to Regulation (EC) No 336/2006 of the European Parliament and of the Council(*);

(*) Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (OJ L 64, 4.3.2006, p. 1).

Or. en

Proposal for a directive
Article 1 – paragraph 1 – point 6
Directive 2003/87/EF
Article 3gd a (new)

Text proposed by the Commission

Amendment

Article 3gda

Contractual arrangements

Where the ultimate responsibility for the purchase of the fuel or the operation of the ship is assumed, pursuant to a contractual arrangement, by an entity other than the shipping company, that entity shall be responsible under the contractual arrangement for covering the costs arising from compliance with the obligations under this Directive.

For the purposes of this Article, 'operation of the ship' means determining the cargo carried by, or the route and speed of the ship.

Member States shall take the necessary measures to ensure that the shipping company has appropriate and effective means of recovering the costs referred to in the first paragraph of this Article in accordance with Article 16.

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Proposal for a directive
Recital 20

Text proposed by the Commission

(20) The person or organisation responsible for the compliance with the EU ETS should be the shipping company, defined as the shipowner or any other organisation or person, such as the manager or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the shipowner and that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Management Code for the Safe Operation of Ships and for Pollution Prevention. This definition is based on the definition of ‘company’ in Article 3, point (d) of Regulation (EU) 2015/757, and in line with the global data collection system established in 2016 by the IMO. ***In line with the polluter pays principle, the shipping company could, by means of a contractual arrangement, hold*** the entity that is ***directly*** responsible for the decisions affecting the CO₂ emissions of the ship accountable for the compliance costs under this Directive. This entity would normally be the entity that is responsible for the choice of fuel, route and speed of the ship.

Amendment

(20) The person or organisation responsible for the compliance with the EU ETS should be the shipping company, defined as the shipowner or any other organisation or person, such as the manager or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the shipowner and that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Management Code for the Safe Operation of Ships and for Pollution Prevention. This definition is based on the definition of ‘company’ in Article 3, point (d) of Regulation (EU) 2015/757, and in line with the global data collection system established in 2016 by the IMO. ***However, the shipping company is not always responsible for purchasing the fuel or taking operational decisions that affect the greenhouse gas emissions of the ship. Those responsibilities can be assumed by an entity other than the shipping company under a contractual arrangement. In that case, in order to ensure that the polluter pays principle is fully respected and to encourage the adoption of efficiency measures and cleaner fuels, a binding clause should be included in such arrangements for the purpose of passing on the costs so that the entity that is ultimately responsible for the decisions affecting the greenhouse gas emissions of the ship is held accountable for covering the compliance costs paid by the shipping company under this Directive. That entity would normally be the entity that is responsible for the choice and purchase of***

the fuel used by the ship, or for the operation of the ship, as regards, for example, the choice of the cargo carried by, or the route and speed of, the ship.

Or. en

**Compromise Amendment 17
Ocean Fund (new)**

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 45, 749, 750, 754, 755, 756, 758, 759, 761, 765, 766, 767 (article 3gd), 10, 217, 228, 229, 230, 231, 232, 233, 235, 354, 358 (recital 20a)

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2003/87/EC

Article 3ga a (new)

Text proposed by the Commission

Amendment

Article 3gaa

Ocean Fund

1. A fund ('the Ocean Fund') shall be established ~~under the Fund established under Article 10a(8), applying the rules for governance and support as laid down in that Article for the period from ... [the year of the start of auctioning of allowances in the maritime sector under this Directive] to 2030~~ to support projects and investments referred to in paragraph 3. 75 % of the revenues generated from the auctioning of allowances referred to in Article 3g shall be used through the Ocean Fund. Furthermore, any external assigned revenues referred to in Article 21(2) of Regulation (EU) [FuelEU Maritime] shall be allocated to the Ocean Fund and used in accordance with paragraph 3.

1a. Shipping companies may pay an annual membership contribution to the Ocean Fund in accordance with their total emissions reported for the preceding calendar year under Regulation (EU) 2015/757 to limit the administrative

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Kommentiert [LC39]: Governance: in light of problems regarding compatibility between governance set-up under Innovation Fund and specific provisions on governance in paragraphs 1a and 2, compromise will be to set up as a separate Fund with maximum synergy with Innovation Fund governance.

burden for shipping companies, including small and medium sized companies and companies that are not frequently active within the scope of this Directive. The Ocean Fund shall surrender allowances collectively on behalf of shipping transport companies that are members of the Ocean Fund. The membership contribution per tonne of emissions shall be set by the Ocean Fund by 28 February each year, but shall be at least equal to the highest recorded primary or secondary market settlement price for allowances in the preceding year.

2. The Ocean Fund shall be managed centrally ~~under the Fund established under Article 10a(8), applying the rules for governance and support as laid down in,~~ through a Union body, ~~and~~ ~~†~~The governance structure of the Ocean Fund shall be similar to ~~and ensure synergy with~~ the governance structure of the Innovation Fund established under Article 10a(8), ~~applying, where relevant, the rules for governance and support as laid down in Article 10a(8).~~ The Ocean Fund's governance structure and decision-making process shall be transparent and inclusive, in particular in relation to the setting of priority areas, criteria and grant allocation procedures. Relevant stakeholders shall have an appropriate consultative role. All information on the projects and investments supported by the Ocean Fund and all other relevant information on the functioning of the Ocean Fund shall be made available to the public.

3. Funds provided under the Ocean Fund shall support the transition to an energy efficient and climate resilient Union maritime sector and be used to support projects and investments in relation to the following:

(a) improvement of the energy

efficiency of ships and ports;

(b) innovative technologies and infrastructure for decarbonising the maritime transport sector, including as regards short sea shipping and ports, **including connections to electricity grids in ports;**

Kommentiert [LC40]: TRAN

(c) deployment of sustainable alternative fuels, such as hydrogen, **e-fuels** and ammonia, that are produced from renewable energy, including through carbon contracts for difference **aimed at bridging the price difference between low and zero-carbon fuels and conventional fuels;**

Kommentiert [LC41]: AM 761 LEFT, AM 749 EPP,

Kommentiert [LC42]: TM: the reference to 'zero and low' here is only as an explanation of 'carbon contracts for difference'. As a compromise, this explanation can be deleted without changing the content of the text.

(d) zero-emission propulsion technologies, including wind technologies;

(e) research and development and the first industrial application of technologies and designs reducing greenhouse gas emissions, including innovative technologies and fuels for ice-class ships and winter navigation in frozen areas;

(f) **priority shall be given to projects that have a positive effect on biodiversity and promote innovation in the sector, such as technologies that not only lead to decarbonisation but, inter alia, also reduce the risk of noise, air and maritime pollution;**

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(g) contributing to a just transition in the maritime sector through training, upskilling and reskilling of existing workforce and preparation of next generation maritime workforce;

hat formatiert: Hervorheben

43% of the Fund shall be used to contribute to the protection, restoration and better management of marine ecosystems impacted by global warming such as marine protected areas; and to promote a crosscutting sustainable blue economy such as renewable marine energy.

hat formatiert: Hervorheben

All investment supported by the Ocean

Fund shall be made public and shall be consistent with the aims of this Directive.

3a. All funding provided under the Ocean fund shall be carried out in accordance with:

*(a) the **do no significant harm** principle as set out in the Article 17 of ~~the Regulation (EU) 2020/852 of the European Parliament and of the Council~~;*

*(b) **minimum safeguards** as set out in ~~the Article 18 of the Regulation (EU) 2020/852 of the European Parliament and of the Council~~.*

4. The Commission shall engage with third countries with regard to exploring options as to how they could also make use of the Ocean Fund. A corresponding share of the Ocean Fund shall be made available for those countries outside the Union, in particular Least Developed Countries and Small Island States, whose voyages from or to a port not under the jurisdiction of a Member State are covered by 100_% for measures aiming at adapting to climate change and decreasing their emissions in the maritime sector.

5. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the implementation of this Article. In implementing the Ocean Fund, the Commission shall take all the appropriate measures in accordance with Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council to ensure the protection of funds in relation to measures and investments supported by the Ocean Fund, in the event of failure to respect the rule of law in the Member States. To that end, the Commission shall provide an effective and efficient internal control system and shall seek recovery of amounts wrongly paid or incorrectly used.*

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*** Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).**

hat formatiert: Hervorheben

**** Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433I, 22.12.2020, p. 1).**

hat formatiert: Hervorheben

Or. en

**Proposal for a directive
Recital 20 a (new)**

Text proposed by the Commission

Amendment

(20a) The successful transition to zero emission shipping requires an integrated approach and the appropriate enabling environment to stimulate innovation, both as regards ships and in ports. That enabling environment involves public and private investment in research and innovation, technological and operational measures to improve the energy efficiency of ships and ports, and the deployment of sustainable alternative fuels, such as hydrogen and ammonia, that are produced from renewable energy sources, including through carbon contracts for difference ~~aimed at bridging the price difference between low- and zero-carbon fuels and conventional fuels~~, and of zero emission propulsion technologies, including the necessary refuelling and recharging infrastructure in ports. An Ocean Fund should be established from revenues generated from the auctioning of allowances in respect of maritime transport activities under the EU ETS, in

order to improve the energy efficiency of ships and support investment aimed at facilitating the decarbonisation of maritime transport, including as regards short sea shipping and ports, and training and re-training of workforce. In addition, the revenues generated from penalties imposed under Regulation (EU) xxxx/xxxx [FuelEU Maritime] of the European Parliament and of the Council should be allocated to the Ocean Fund as external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council^{1a} and Article 3gaa(3) of this Directive. The Commission should ensure that due consideration is given to support innovative projects ~~aimed at~~ ~~accelerating~~ ~~contributing to the development and deployment of renewable and low-carbon fuels in the maritime sector, as specified in Article 21(1)~~ ~~deployment and implementation of~~ Regulation (EU) xxxx/xxxx [FuelEU Maritime] as well as projects that have a positive effect on biodiversity and help reduce the risk of noise, air and maritime pollution.

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Kommentiert [LC43]: To be aligned with agreement on Article

^{1a} Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Or. en

Compromise Amendment 18
ETS Maritime - phase-in, scope of voyages covered and International cooperation
(Article 3ge)

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 8, 199, 218-222 (recitals 17a, 18), 47, 689-698, 701-709, 768-777 (article 3ge)

New: 778, 779, 780, 781, 782,

Proposal for a directive
Article 1 – paragraph 1 – point 6

Directive 2003/87/EC

Article 3ga

Text proposed by the Commission

Amendment

Article 3ga

Article 3ga

Phase-in of requirements for maritime transport

Requirements for maritime transport

Shipping companies shall be liable to surrender allowances *according to the following schedule*:

As of 1 January 2024 and each year thereafter, shipping companies shall be liable to surrender allowances *corresponding to one hundred percent (100 %) of verified emissions reported for each respective year*.

(a) 20 % of verified emissions reported for 2023;

~~deleted~~

(b) 45 % of verified emissions reported for 2024;

~~deleted~~

(c) 70 % of verified emissions reported for 2025;

~~deleted~~

(d) 100 % of verified emissions reported for 2026 and each year thereafter.

~~deleted~~

To the extent that fewer allowances are surrendered compared to the verified emissions from maritime transport for the years 2023, 2024 and 2025, once the difference between verified emissions and allowances surrendered has been established in respect of each year, a corresponding quantity of allowances shall be cancelled rather than auctioned pursuant to Article 10.

~~deleted~~

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Kommentiert [MD44]: Should not be mentioned when we include whole article in the amendment.

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Formatierte Tabelle

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SCOPE VOYAGES AND INT'L COOPERATION

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments

689-702: 704-710 (article 3g);

38-41, 43, 711-747 (article 3ga),

46, 699 (article 3gaa),

47, 768-782 (article 3ge);

[190-191 \(recital 14\)](#)

[198-201 \(recital 16 and 16a\)](#)

8, 199, 218-222 (recitals 17a, 18),

6, 202-208 (recital 17),

209-216, 218, 232 (new recital 17a),

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2003/87/EC

Article 3g – paragraph 1

Text proposed by the Commission

1. The allocation of allowances and the application of surrender requirements in respect of maritime transport activities shall apply in respect of fifty percent (50 %) of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, fifty percent (50 %) of the emissions from ships performing voyage departing from a port outside the jurisdiction of a Member State and arriving at a port under the jurisdiction of a Member State, one hundred percent (100 %) of emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port under the jurisdiction of a Member State and one hundred percent (100 %) of emissions from ships at berth in a port under the jurisdiction of a Member State.

Amendment

1. The allocation of allowances and the application of surrender requirements in respect of maritime transport activities shall apply in respect of one hundred percent (100 %) of emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port under the jurisdiction of a Member State and one hundred percent (100 %) of emissions from ships at berth in a port under the jurisdiction of a Member State.

Until 31 December 2023, the allocation of allowances and the application of surrender requirements in respect of maritime transport activities shall apply in respect of fifty percent (50 %) of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, fifty percent (50 %) of the emissions from ships performing voyage departing from a port outside the jurisdiction of a Member State and arriving at a port under the jurisdiction of a Member State.

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Kommentiert [LC45]: Compromise proposal:
Intra-EU: 100% from 2024
Extra-EU: 50% 2024-2027, 100% from 2028, with derogations under strict conditions

From 1 January 2025 and subject to the derogations set out in Article 3ga, the allocation of allowances and the application of surrender requirements in respect of maritime transport activities shall apply in respect of one hundred percent (100 %) of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, one hundred percent (100 %) of the emissions from ships performing voyage departing from a port outside the jurisdiction of a Member State and arriving at a port under the jurisdiction of a Member State.

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Kommentiert [LC46]: Derogations:
 - 50% if third country has national carbon pricing mechanism equivalent to EU-ETS
 - 50% if third country signs a bilateral/plurilateral agreement with EU establishing a bilateral/plurilateral carbon pricing mechanism equivalent to EU-ETS
 - 50% if third country is an LDC or SIDS and includes maritime in its NDCs

Proposal for a directive
 Article 1 – paragraph 1 – point 6
 Directive 2003/87/EC
 Article 3ga (new)

Text proposed by the Commission

Amendment

Article 3ga

Derogations conditional on the taking of measures by Cooperation with third countries and international organisations to address the climate impact of maritime transport

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Kommentiert [CLM47]: Alignment with similar title for ETS aviation

Kommentiert [MD48]: As I understand, this term has been changed in the aviation file too.

1. The Commission shall engage with third countries with the aim of establishing ~~bilateral or multiplurilateral~~ agreements on actions and market-based measures to reduce greenhouse gas emissions from maritime transport in line with the goal of keeping the global temperature rise within 1,5 °C degrees above pre-industrial levels in line with the Paris Agreement. The Commission shall keep the Parliament and the Council informed of any developments in this regard.

Kommentiert [LC49]: EP Legal Service on reason to delete multilateral/UN-level agreements: Art 3ga deals with future bi- or multi-lateral agreements. In that regard, it provides for a DA with which the COM could reduce the scope of maritime emissions covered by ETS. At the same time, Art 3ge which concerns a future IMO measure (and which was included in the COM proposal) provides for a legislative amendment. The two articles deal with a similar situation – AMs to the scope of the ETS maritime in view of future international legal arrangements. On the one hand – unless I am missing something – a similar procedure for the two could be provided for. On the other and more importantly, I had previously left a comment that a DA for reducing the scope of the ETS may not be the most appropriate legal solution.

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~~In the event~~ Where:

(a) a third country has a carbon pricing mechanism in place to cap and reduce emissions that is at least equivalent to that of the EU-ETS; ~~or~~

(b) a carbon pricing mechanism to cap and reduce emissions that is at least equivalent to that of the EU ETS has been established through a bilateral or ~~multi~~lateral agreement between the Union and one or more third countries and it has been decided to link it to the EU ETS pursuant to Article 25 establishing, or

(c) a third country is a ~~Least~~ Developed ~~Country~~ or ~~s~~Small Island ~~Developed~~ State that has a GDP per capita not equalling or exceeding the Union average and includes ~~these~~ emissions under its nationally determined contributions under the Paris Agreement of reaching a bilateral agreement with a third country;

the Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive to introduce a proportionate reduction of the scope of application of the Union measures while maintaining in the scope of the EU ETS at least 50 % of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, and 50% percent of the emissions from ships performing voyages departing from a port outside the jurisdiction of a Member State and arriving at a port under the jurisdiction of a Member State.

Kommentiert [LC50]: Greens

Kommentiert [LC51]: See recital for clarifications on 'equivalent'

hat formatiert: Hervorheben

Kommentiert [LC52]: Greens

hat formatiert: Hervorheben

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Kommentiert [MD53]: we do not refer to any specific emissions in this sentence

hat formatiert: Hervorheben

Carbon leakage protection

Article 3gg

Text proposed by the Commission

Amendment

Article 3gg

Ports at risk of carbon leakage

By way of derogation from ~~to~~ Article 3g, where a third country does not have a carbon pricing mechanisms in place to cap and reduce emissions that is at least equivalent to that of the EU- ETS, one hundred percent (100 %) of emissions from ships performing single voyages directly after ~~and/or~~ directly preceding voyages departing from ~~with~~ departure in a port under the jurisdiction of ~~an~~ EU Member State ~~and~~ arriving in a port outside the jurisdiction of a Member State ~~and~~ non-Union port at risk of carbon leakage or ~~with~~ departing from departure in a port outside the jurisdiction of a Member State ~~non-Union port and at risk of carbon leakage and~~ arrival arriving in a port under the jurisdiction of a EU Member State shall be subject to the requirements of Article 10.

The Commission is empowered to adopt delegated acts in accordance with paragraph 23 to supplement this Directive by setting out the criteria to classify a port outside the jurisdiction of a Member State as posing a

hat formatiert: Nicht Hervorheben

Kommentiert [LC54]: Carbon leakage protection: S&D and EPP Spanish proposals on 'extra leg' with T&E drafting

hat formatiert: Schriftart: Fett, Kursiv, Hervorheben

Kommentiert [MD55]: We normally use the term "a port outside the jurisdiction of a Member State" and "a port under the jurisdiction of a Member State" and not "non-Union ports" and "Union parts"

hat formatiert: Hervorheben

hat formatiert: Hervorheben

Formatiert: Block

hat formatiert: Nicht Hervorheben

Formatiert: Zentriert

hat formatiert: Nicht Hervorheben

Formatiert: Block

Kommentiert [OP56]: 'or' would seem to make more sentence here

Kommentiert [MD57]: I think this one should still be and.

Kommentiert [MD58]: The two paragraphs seems to be a bit repetitive. The idea seem to be to establish criteria in a delegated act and then draw up a list best on those criteria. So I have split it into two paragraphs accordingly.

hat formatiert: Nicht Hervorheben

hat formatiert: Nicht Hervorheben

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significant risk of carbon leakage, in particular taking into account the risk of relocation of transhipment operations from ports in the Union to transhipment ports outside the Union.

hat formatiert: Nicht Hervorheben

hat formatiert: Nicht Hervorheben

Based on the criteria referred to in the second paragraph, the Commission shall establish a list of non-Union ports outside the jurisdiction of a Member State that pose a significant risk of carbon leakage and define the criteria of inclusion of Union ports into that list, in particular taking into account the risk of relocation of transhipment operations from EU ports to non-EU transhipment ports, and it shall update that list annually.

hat formatiert: Nicht Hervorheben

Kommentiert [MD59]: The two paragraphs seems to be a bit repetitive. The idea seem to be to establish criteria in a delegated act and then draw up a list best on those criteria.

The Commission is empowered to adopt delegated acts in accordance with paragraph 2 to supplement this Directive concerning the criteria to classify a non-Union port that poses a significant risk of carbon leakage and draw up a list of such non-Union ports accordingly.

Formatiert: Zentriert

Article 3(1)(new points) (definitions from the Spanish amendments)

Text proposed by the Commission

Amendment

(xb) "transhipment port" means thea port where the movement of one type of cargo by way of transhipment operationsto be transhipped exceeds 60 % of the total traffic of that port. It needs to be considered that cargo, container or goods are transhipped when they are unloaded from a ship to the port for the sole purpose of loading them onto another ship.;

hat formatiert: Nicht Hervorheben

Formatiert: Block

Formatierte Tabelle

Formatiert: Block

Kommentiert [OP60]: this sentence doesn't belong to the definition - it is a clarification of interpretation and therefore should be in the recitals.

Kommentiert [MD61R60]: The content is the same as the definition just below, so if we just use that defined term, we would solve the issue.

(z d) "transhipment operation" means an operation in which any cargo, container or good is unloaded from a ship to the port for the sole purpose of

loading it onto another ship-:

(xa) "(b) 'port of call' means the port where a ship stops to load or unload a substantial part of its cargo or to embark or disembark passengers; consequently, stops for the sole purposes of refuelling, obtaining supplies, relieving the crew, going into dry-dock or making repairs to the ship and/or its equipment, stops in port because the ship is in need of assistance or in distress, ship-to-ship transfers carried out outside ports, and stops for the sole purpose of taking shelter from adverse weather or rendered necessary by search and rescue activities are excluded from this definition";

Article 3gg

Text proposed by the Commission

Amendment

Article 3gg

By way of derogation to article 3q(1) second subparagraph, in case of a distance between a port under the jurisdiction of a Member State and at a port outside the jurisdiction of a Member State less than [xxx] nautical miles [the Commission shall recalculate the appropriate number of nautical miles], subject to an impact assessment establishing a list of port calls in neighbouring non-EU transshipment ports, the allocation of allowances and the application of surrender requirements in respect of maritime transport activities shall apply in respect of one hundred percent (100%) of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, including transshipment ports, one hundred percent (100%) of the

Formatiert: Block

Kommentiert [LC62]: Carbon leakage protection: S&D and EPP Spanish proposals on 'extra leg' with T&E drafting

Kommentiert [CLM63]: TRAN 63

hat formatiert: Hervorheben

hat formatiert: Hervorheben

hat formatiert: Hervorheben

emissions from ships performing voyage departing from a port outside the jurisdiction of a Member State, including transshipment ports, and arriving at a port under the jurisdiction of a Member State.

- Kommentiert [CLM64]: DLA TO REDRAFT
- hat formatiert: Hervorheben
- hat formatiert: Englisch (Vereinigtes Königreich), Hervorheben

IMO clause

Proposal for a directive

Article 1 – paragraph 1 – point 6

Directive 2003/87/EC

Article 3ge – paragraph 1

Text proposed by the Commission

1. The Commission shall *consider possible amendments in relation to the adoption by the International Maritime Organization of a global market-based measure to reduce greenhouse gas emissions from maritime transport. In the event of the adoption of such a measure, and in any event before the 2028 global stocktake and no later than 30 September 2028, the Commission shall present a report to the European Parliament and to the Council in which it shall examine any such measure. Where appropriate, the Commission may follow to the report with a legislative proposal to the European Parliament and to the Council to amend this Directive as appropriate.*

Amendment

1. *The Commission shall engage with the IMO with the aim to establish of adopting a global market-based measure to cap and reduce greenhouse gas emissions from maritime transport in line with the Paris Agreement and to at least a level comparable to that resulting from the Union measures taken under this Directive. T and the Commission shall continuously monitor and evaluate progress made through the International Maritime Organization (IMO) and shall regularly report to the Council and the European Parliament on such progress. In the event of the IMO Within 12 months of the adoption of a global market-based such a measure to reduce greenhouse gas emissions from maritime transport, and before this measure becomes operational, and in any event before the 2028 global stocktake and no later than 30 September 2028 the Commission, supported by the European Scientific Advisory Board on Climate Change referred to established in Article 3 of Regulation (EU) 2021/1119, shall present a report to the European Parliament and to the Council in which it*

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- hat formatiert: Englisch (Vereinigtes Königreich)
- Kommentiert [LC65]: S&D, RE, Greens
- Kommentiert [LC66]: Greens
- hat formatiert: Hervorheben
- hat formatiert: Hervorheben
- hat formatiert: Englisch (Vereinigtes Königreich)
- Kommentiert [CLM67]: Greens
- hat formatiert: Hervorheben
- hat formatiert: Hervorheben
- hat formatiert: Hervorheben

shall examine any such measure.

That report shall examine the ambition and overall environmental integrity of the measures decided upon by the IMO, including their general ambition in relation to the Paris Agreement objective of limiting the temperature increase in the global average temperature to 1.5°C above pre-industrial levels, to the Union economy-wide greenhouse gas emissions reduction target for 2030 and to the climate-neutrality objective as set out defined in Regulation (EU) 2021/1119, and shall compare the overall environmental integrity of those measures to the overall environmental integrity of measures involved in applying the EU ETS according to in accordance with the rules set out in this Directive.

The report shall take into account the level of participation in those global measures, their enforceability, transparency, penalties for non-compliance, the processes for public input, the use of offset credits, monitoring, reporting and verification of emissions, registries and accountability.

The Commission shall also monitor adverse impacts as regards, inter alia, possible transport cost increases, market distortions and changes in port traffic such as port evasion and shift of transshipment hubs, the overall competitiveness of the maritime sector in the Member States, and in particular the adverse impacts on those shipping services that provide essential services of territorial continuity.

Where appropriate, In the event of the adoption of such a global market-based measure to reduce greenhouse gas emissions from maritime transport in line with the Paris Agreement and to at least a level comparable to that resulting from the Union measures taken under this Directive, the Commission shall may, where appropriate, accompany the report

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Kommentiert [OP68]: 'of' doesn't work
is the intended meaning 'involved' ?

Kommentiert [CLM69]: Greens

Kommentiert [OP70]: by whom?

Kommentiert [CLM71]: relevant for ICAO, but the use or not of offsets in a future IMO scheme has not yet been decided

Kommentiert [OP72]: linked to 'take into account'?

Kommentiert [MD73R72]: I would say yes

hat formatiert: Hervorheben

hat formatiert: Hervorheben

hat formatiert: Hervorheben

Formatiert: Standard

Kommentiert [CLM74]: copy-paste of paragraph 1

Kommentiert [MD75]: we would normally have "shall, where appropriate", since the Commission already has right of initiative under the Treaty.

with a legislative proposal to amend this Directive *and align it with measures taken on the global level while recognising the Union's sovereignty to regulate its share of emissions from international shipping voyages in line with the obligations of the Paris Agreement.*

Or. en

2. The Commission shall monitor the implementation of this Chapter and possible trends as regards companies seeking to avoid being bound by the requirements of this Directive. If appropriate, the Commission shall propose measures to prevent *such avoidance.*

2. The Commission shall monitor, *and report biennially following the entry into force of this Directive, on the implementation of this Chapter and possible trends as regards companies seeking to avoid being bound by the requirements of this Directive. **The Commission shall also monitor adverse impacts as regards, inter alia, possible transport cost increases, market distortions and changes in port traffic such as port evasion and shifts of transshipment hubs, the overall competitiveness of the maritime sector in the Member States, and in particular the adverse impacts on those shipping services that provide essential services of territorial continuity.*** If appropriate, the Commission shall propose measures to prevent *possible adverse impacts or avoidances from circumvention of the requirements of this Directive.*

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Or. en

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) International maritime transport activity, consisting of voyages between ports under the jurisdiction of two different Member States or between a port under the jurisdiction of a Member State and a port outside the jurisdiction of any Member State, has been the only means of transportation not included in the Union's past commitments to reduce greenhouse

Amendment

(14) International maritime transport activity, consisting of voyages between ports under the jurisdiction of two different Member States or between a port under the jurisdiction of a Member State and a port outside the jurisdiction of any Member State, has been the only means of transportation not included in the Union's past commitments to reduce greenhouse

gas emissions. Emissions from fuel sold in the Union for journeys that depart in one Member State and arrive in a different Member State or a third country have grown by around 36 % since 1990. Those emissions represent close to 90 % of all Union navigation emissions as emissions from fuel sold in the Union for journeys departing and arriving in the same Member State have been reduced by 26 % since 1990. In a business-as-usual scenario, emissions from international maritime transport activities are projected to grow by around 14 % between 2015 and 2030 and 34 % between 2015 and 2050. If the climate change impact of maritime transport activities grows as projected, it would significantly undermine reductions made by other sectors to combat climate change.

gas emissions. Emissions from fuel sold in the Union for journeys that depart in one Member State and arrive in a different Member State or a third country have grown by around 36 % since 1990. Those emissions represent close to 90 % of all Union navigation emissions as emissions from fuel sold in the Union for journeys departing and arriving in the same Member State have been reduced by 26 % since 1990. In a business-as-usual scenario, emissions from international maritime transport activities are projected to grow by around 14 % between 2015 and 2030 and 34 % between 2015 and 2050. If the climate change impact of maritime transport activities grows as projected, it would significantly undermine reductions made by other sectors to combat climate change **and therefore achieving the economy-wide net greenhouse gas emissions reduction target for 2030, the Union's climate-neutrality objective by 2050, at the latest, and the aim to achieve negative emissions thereafter laid down in Article 2(1) of Regulation (EU) 2021/1119 and the goal of the Paris Agreement.**

Or. en

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) Pursuant to Directive (EU) 2018/410, the Commission should report to the European Parliament and to the Council on the progress achieved in the IMO towards an ambitious emission reduction objective, and on accompanying measures to ensure that the maritime transport sector duly contributes to the efforts needed to achieve the objectives agreed under the Paris Agreement. Efforts to limit global maritime emissions through the IMO are under way and should be encouraged. However, *while* the recent

Amendment

(16) Pursuant to Directive (EU) 2018/410, the Commission should report to the European Parliament and to the Council on the progress achieved in the IMO towards an ambitious emission reduction objective, and on accompanying measures to ensure that the maritime transport sector duly contributes to the efforts needed to achieve the objectives agreed under the Paris Agreement. Efforts to limit global maritime emissions through the IMO are under way and should be encouraged. However, the recent

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progress achieved through the IMO is welcome, these measures will not be sufficient to achieve the objectives of the Paris Agreement.

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

developments in the IMO framework are not sufficient to achieve the objectives of the Paris Agreement. Given the international character of shipping, the Commission in collaboration with Member States should further step up diplomatic efforts to make progress on the development of a global market-based measure at the International Maritime Organization (IMO) level.

Amendment

(16a) Evasive port calls in neighbouring non-EU countriesports could seriously jeopardise the effectiveness of the maritime EU ETS in relation to maritime transport, as it would not reduce total shipping emissions. Such evasive port calls could even increase overall emissions, in particular when such evasion leads to longer voyages to and from third countries with lower environmental standards. Therefore, the Commission should monitor and report biennially following the entry into force of this Directive on the implementation of this Chapter and possible trends as regards companies seeking to avoid being bound by the requirements of this Directive and should present, where applicable, legislative proposals to address any evidence of evasive port calls.

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- Kommentiert [OP76]: 'as' doesn't seem correct as what follows doesn't seem to be a reason for 'evasive port calls jeopardising the effectiveness' etc.
- Kommentiert [OP77]: unclear what this refers to since we start the sentence with 'Evasive port calls' (plural)
- hat formatiert: Hervorheben
- Kommentiert [OP78]: What?
- hat formatiert: Hervorheben
- hat formatiert: Hervorheben

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) In the European Green Deal, the Commission stated its intention to take additional measures to address greenhouse gas emissions from the maritime transport sector through a basket of measures to enable the Union to reach its emissions

Amendment

(17) Greenhouse gas emissions from the maritime sector account for around 2,5 % of Union emissions. The lack of decisive action within the IMO framework has delayed innovation and introduction of necessary measures to reduce

reduction targets. In this context, Directive 2003/87/EC should be amended to include the maritime transport sector in the EU ETS in order to ensure this sector contributes to the increased climate objectives of the Union as well as to the objectives of the Paris Agreement, which requires developed countries to take the lead by undertaking economy-wide emission reduction targets, while developing countries are encouraged to move over time towards economy-wide emission reduction or limitation targets.⁴⁹ Considering that emissions from international aviation outside Europe should be capped from January 2021 by global market-based action while there is no action in place that caps or prices maritime transport emissions, it is appropriate that the EU ETS covers a share of the emissions from voyages between a port under the jurisdiction of a Member State and port under the jurisdiction of a third country, with the third country being able to decide on appropriate action in respect of the other share of emissions. The extension of the EU ETS to the maritime transport sector should thus include half of the emissions from ships performing voyages arriving at a port under the jurisdiction of a Member State from a port outside the jurisdiction of a Member State, half of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, emissions from ships performing voyages arriving at a port under the jurisdiction of a Member State from a port under the jurisdiction of a Member State, and emissions at berth in a port under the jurisdiction of a Member State. This approach has been noted as a practical way to solve the issue of Common but Differentiated Responsibilities and Capabilities, which has been a longstanding challenge in the UNFCCC context. The coverage of a share of the emissions from both incoming and

emissions in the sector. In the European Green Deal, the Commission stated its intention to take additional measures to address greenhouse gas emissions from the maritime transport sector through a basket of measures to enable the Union to reach its emissions reduction targets. In this context, Directive 2003/87/EC should be amended to include the maritime transport sector in the EU ETS in order to ensure this sector contributes *its fair share* to the increased climate objectives of the Union as well as to the objectives of the Paris Agreement, which requires developed countries to take the lead by undertaking economy-wide emission reduction targets, while developing countries are encouraged to move over time towards economy-wide emission reduction or limitation targets.⁴⁹ The surrendering of allowances by shipping companies should be fully implemented as of 2024 and shipping companies should surrender the number of allowances corresponding to all of their verified emissions reported in the preceding year. Considering that emissions from international aviation outside Europe should be capped from January 2021 by global market-based action while there is no action in place that caps or prices maritime transport emissions, it is appropriate that the EU ETS covers *these emissions, while foreseeing providing for reductions-derogations under strict conditions if third countries take responsibility for these emissions or an IMO market-based measure is in place to cover* a share of the emissions from voyages between a port under the jurisdiction of a Member State and port under the jurisdiction of a third country, with the third country being able to decide on appropriate action in respect of the other share of emissions. The From 2028 onwards, the extension of the EU ETS to the maritime transport sector should thus include emissions from voyages to and from third countries, while foreseeing providing for reductions

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Kommentiert [OP79]: 'derogations from what'?

Kommentiert [LC80]: To be aligned with agreement on article

outgoing voyages between the Union and third countries ensures the effectiveness of the EU ETS, notably by increasing the environmental impact of the measure compared to a geographical scope limited to voyages within the EU, while limiting the risk of evasive port calls and the risk of delocalisation of transshipment activities outside the Union. To ensure a smooth inclusion of the sector in the EU ETS, the surrendering of allowances by shipping companies should be gradually increased with respect to verified emissions reported for the period 2023 to 2025. To protect the environmental integrity of the system, to the extent that fewer allowances are surrendered in respect of verified emissions for maritime transport during those years, once the difference between verified emissions and allowances surrendered has been established each year, a corresponding number of allowances should be cancelled. As from 2026, shipping companies should surrender the number of allowances corresponding to all of their verified emissions reported in the preceding year.

derogations to half of the emissions from ships performing voyages arriving at a port under the jurisdiction of a Member State from a port outside the jurisdiction of a Member State, half of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State under strict conditions, notably in particular where a third country has in place a carbon pricing mechanism in place, or has established through a bilateral or plurilateral agreement between the Union and one or more third countries and has decided to link a carbon pricing mechanism linked it to the EU ETS pursuant to Article 25, a carbon pricing mechanism to cap and reduce emissions that is to a level at least equivalent to that of the EU-ETS, meaning a binding mechanism to cap, reduce and price maritime greenhouse gasGHG emissions resulting toin, an absolute emissions reduction at least equivalent to the case where 100% of those emissions would be subject to the EU ETS, or where a third country is a Least Developed Country or a Small Island Developing State that has a GDP per capita not equalling or exceeding the Union average and includes these emissions under its nationally determined contributions under the Paris Agreement.

⁴⁹ Paris Agreement, Article 4(4).

⁴⁹ Paris Agreement, Article 4(4).

Or. en

**Proposal for a directive
Recital 17 a (new)**

Text proposed by the Commission

Amendment

(17a) The Commission, the Council and the European Parliament should work with third countries in order to facilitate acceptance of the provisions of Directive

Kommentiert [OP81]: from what?
Kommentiert [OP82]: 'to' doesn't work
derogations for?

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- hat formatiert:** Englisch (Vereinigtes Königreich)
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- hat formatiert:** Englisch (Vereinigtes Königreich)
- Kommentiert [OP83]:** or 'in a manner at least equivalent'
- hat formatiert:** Hervorheben
- hat formatiert:** Hervorheben
- hat formatiert:** Schriftart: Fett, Kursiv, Englisch (Vereinigtes Königreich)
- hat formatiert:** Hervorheben
- hat formatiert:** Schriftart: Fett, Kursiv, Englisch (Vereinigtes Königreich)
- hat formatiert:** Schriftart: Fett, Kursiv, Englisch (Vereinigtes Königreich)
- hat formatiert:** Schriftart: Fett, Kursiv, Englisch (Vereinigtes Königreich)
- Kommentiert [CLM84]:** RE, Greens: explanation of what 'equivalent' means.
- hat formatiert:** Schriftart: Fett, Kursiv
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2003/87/EC as regards maritime transport activities and to strengthen international cooperation in this area. At the same time, the Commission, the Council and the European Parliament should work to strengthen global measures through the IMO.

Or. en

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) The provisions of Directive 2003/87/EC as regards maritime transport activities should be kept under review in light of future international developments and efforts undertaken to achieve the objectives of the Paris Agreement, including the second global stocktake in 2028, and subsequent global stocktakes every five years thereafter, intended to inform successive nationally determined contributions. In particular, the Commission should report any time before the second global stocktake in 2028 - and therefore no later than by 30 September 2028 - to the European Parliament and to the Council on progress in the IMO negotiations concerning a global market-based measure. In its report, the Commission should analyse the International Maritime Organization instruments and, assess, as relevant, how to implement those instruments in Union law through a revision of Directive 2003/87/EC. In *its report*, the Commission should *include proposals as appropriate*.

Amendment

(18) The provisions of Directive 2003/87/EC as regards maritime transport activities should be kept under review in light of future international developments and efforts undertaken to achieve the objectives of the Paris Agreement, including the second global stocktake in 2028, and subsequent global stocktakes every five years thereafter, intended to inform successive nationally determined contributions. In particular, the Commission should report any time before the second global stocktake in 2028 - and therefore no later than by 30 September 2028 - to the European Parliament and to the Council on progress in the IMO negotiations concerning a global market-based measure. In its report, the Commission should analyse the International Maritime Organization instruments and, assess, as relevant, how to implement those instruments in Union law through a revision of Directive 2003/87/EC. In ***the event that a global market-based measure has been adopted at IMO level leading to greenhouse gas emission reductions which are in line with the Paris Agreement and at least comparable to those resulting from the Union measures***, the Commission should ***consider a proportionate reduction of the scope of application of the Union measures to avoid the creation of a double burden*** ***while maintaining in the scope of***

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the EU ETS at least 50 % of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, and 50% percent of the emissions from ships performing voyage departing from a port outside the jurisdiction of a Member State and arriving at a port under the jurisdiction of a Member State, while and recognising the Union's sovereignty to regulate its share of emissions from international shipping voyages in line with the obligations of the Paris Agreement. However, in the event that there has been insufficient progress at IMO level or that global measures have been adopted at IMO level which are not in line with the Paris Agreement and at least comparable to those resulting from the Union measures, the Commission should keep the Union measures to cover 100 % of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State and 100 % of the emissions from ships performing voyages departing from a port outside the jurisdiction of a Member State and arriving at a port under the jurisdiction of a Member State, through an amendment of Directive 2003/87/EC.

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Kommentiert [OP85]: 'sovereignty' seems peculiar here given the constitutional nature of the EU

'competence'

hat formatiert: Englisch (Vereinigtes Königreich)

Kommentiert [CLM86]: from the last sub-paragraph of Article 3ge(1)

Kommentiert [OP87]: 'keep' in what sense? maintain in force?

Or. en

Compromise Amendment 24 MARKET INTEGRITY AND TRANSPARENCY

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments [913-915 \(article 10\(5\)a and b new on monitoring and reporting\)](#); [412-414 \(recitals\)](#)

Proposal for a directive

Article 1 – paragraph 1 – point 11 – point d a (new)

Directive 2003/87/EU

Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(da) *the following paragraph is added:*

“5a. ~~Following the final report of 28 March 2022 of the first European Securities and Markets Authority (ESMA) on emission allowances and associated derivatives assessment of carbon market integrity and transparency to be published by the end of March 2022, the Commission shall, where appropriate, present as soon as possible a legislative proposal by ... [six months after the entry into force of this Directive] to follow up on the recommendations in that report in order to introduce/improve the a-level of transparency, monitoring and reporting mechanism for on the European carbon emission allowance markets as well as related derivative markets, taking into account the Union-wide nature of those markets.~~”

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 11 – point d b (new)

Directive 2003/87/EU

Article 10 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

(db) *the following paragraph is added:*

“5b. ~~The European Securities and Markets Authority (ESMA) shall~~

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United in diversity

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DLA comments in [blue](#) and [green](#).

Redrafted in consultation with ESMA, following publication of their report:

ESMA feedback: "ESMA is required to produce several annual reports, which in many cases are not acted upon by the European Commission (EC), so that ESMA often finds itself in the position to deliver the next report while no conclusions have been drawn from the previous one.

This means that sometimes, ESMA can only but repeat policy recommendations already made previously, which is of limited value.

ESMA staff therefore believes that it would be advisable to set a concrete date for EC to act by"

if 'monitoring and reporting' should not be read with 'level of', then add 'and the' before that phrase

regularly monitor the ~~market~~ integrity and transparency of the European ~~carbon~~ emission allowance markets, as well as related derivative markets. ~~Each year, it shall on a regular basis produce~~ publish a public report on the market integrity and transparency of those markets, drawing, as necessary, on the Union registry data and the data reported or made available to the competent authorities. In this report ESMA shall, in particular examine the functioning of the markets in light of any market volatility and price evolution, the operation of the auctions and trading operations on the markets, liquidity and the volumes traded, and the categories and trading behaviour of market participants. ~~Where relevant, this~~ That report shall, where relevant, include recommendations to strengthen market integrity and improve market transparency. These recommendations shall, in particular, consider measures to enhance the information available to market participants and the public at large on the functioning of the emission allowance markets and related derivative markets, improve regulatory reporting and market monitoring in emission allowance markets and related derivative markets, promote the prevention and detection of market abuse and help in maintaining orderly markets infor emission allowances markets and related derivatives markets, targeted revisions of the measures in the event of excessive price fluctuations or a modification of the penalty mechanisms, for example through a fluctuating penalty based on the previous year's average auction price, the non-delivery of allowances, the adjustment of the quantity of subsequent auctions, or a combination thereof. These recommendations shall be assessed

The Commission shall assess the recommendations referred to in the first subparagraph of this paragraph in ~~its~~ the

Redrafted in consultation with ESMA, following publication of the report:

ESMA feedback: "ESMA staff considers that:
- it would be advisable to set a concrete date for EC to act by;
- reports should not be mandated with an annual frequency; it would be more suitable to give ESMA some discretion as to when the reports are to be performed in order to be able to adequately take into account legislative developments or actual events in the market which require a closer look (hence the reference to ESMA "regularly" producing a report)
- paragraph 5b, more specifically the part on recommendations to be made, contains many elements that are intricate to the functioning of the ETS Directive but which fall outside the remit and expertise of securities regulators. ESMA staff would therefore suggest replacing that part with a list of potential recommendations covering areas which would improve financial market oversight and transparency."

The report under paragraph 5 is published "each year", so it may not be possible to assess the recommendations in that report within 6 months.

So instead of that deadline we could say:

"in its next report submitted pursuant to paragraph 5 following the publication of ESMA's report."

~~Commission next report is submitted~~
pursuant to paragraph 5 ~~within six~~
~~months following the publication of~~
~~ESMA's report. The Commission shall,~~
~~which shall be accompanied, where~~
~~appropriate, accompany that report~~
~~by with~~ a legislative proposal ~~by the~~
~~Commission to improve the transparency~~
~~and integrity of the European carbon~~
~~emission allowance markets and related~~
~~derivative markets, taking into account~~
~~the Union-wide nature of those~~
~~markets pursuant to Article 29."~~

Or. en

Proposal for a directive
Recital 42 a (new)

Text proposed by the Commission

Amendment

(42a) ~~The~~ ~~increasing~~ energy prices are
a ~~big~~ ~~major~~ concern for citizens,
especially low-income families, and
~~industry~~ ~~businesses~~, especially SMEs. The
main cause of rising energy prices is our
dependency on fossil fuels ~~imports~~. ~~That~~
~~is why~~ ~~Therefore~~. ~~The~~ ~~Fit for 55~~
~~Package will~~ ~~should~~, in the future, avoid
address and seek to reduce such
~~constraints~~ ~~dependencies~~. ~~In addition to~~
~~that, the, including by improving the~~
~~design of the EU ETS. Strengthening~~
~~should also be better~~ ~~designed to~~
~~strengthen market integrity and improve~~
~~market transparency can also play a role~~
~~in limiting volatility of the EU ETS~~
~~market prices and mitigate the minor part~~
~~of the problem that is linked to the~~
~~volatility of EU ETS market prices.~~

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of which problem?

It would be preferable to be more precise
the problem of increasing energy prices?

Proposal for a directive
Recital 42 c (new)

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Text proposed by the Commission

Amendment

(42c) *The European Securities and Markets Authority (ESMA) is preparing published its final report on emission allowances and associated derivatives an assessment of carbon market integrity and transparency on 28, expected to be published by the end of March 2022. The Commission should, where appropriate and This report should be followed, as soon as possible, present by a legislative proposal by the Commission to introduce to follow up on the recommendations in that report in order to improve the level of transparency, monitoring and reporting on the European emission allowance markets as well as related derivative markets a transparency mechanism for the European carbon markets. However, to continuously monitor market integrity and transparency, avoid misinformation and guide any rapid potential action, the European Securities and Markets Authority (ESMA) should annually on a regularly basis publish a assess and report on the market integrity and transparency of those market, and, where relevant, issue further recommendations for targeted improvements. ESMA This annual assessment should should may in particular examine the functioning of the markets in light of any volatility and price evolution, the operation of the auctions and trading operations on the markets, liquidity and the volumes traded, and the categories and trading behaviour of market participants. Targeted improvements could may could, for example, include measures to enhance the information available to market participants and the public at large on the functioning of the emission allowance markets and related derivative markets, improve regulatory reporting and market monitoring in emission allowance markets and related derivative markets, including by making individual*

Alignment to Article

To avoid "follow(ed)" twice.

No "may" in recitals and the article has "shall" in relation to the issues to be examined.

transactions publicly available, require each market participant to publicly disclose their holdings and positions broken down by motive and horizon, promote the prevention and detection of market abuse and help in maintaining orderly markets in the emission allowance markets and related derivative markets, modification of the reporting of positions held by different categories of participants and penalty mechanisms for market abuse as set out in Regulation (EU) No 596/2014 [Market Abuse Regulation], for example through a fluctuating penalty based on the previous year's average auction price, the non-delivery/withholding of allowances, the adjustment of the quantity of subsequent auctions, or a combination thereof. The Commission should recommend ESMA's recommendations in by the Commission report within six months following the publication of ESMA's report which and should, may be accompanied, where appropriate, present by a legislative proposal by the Commission to address those its recommendations improve integrity and transparency of the European carbon markets.

Or. en

Cf. above:
in its next report on the European carbon market following the publication of ESMA's report".

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 1300-1304, 1368, 1394-1397 (article 12(1), article 19(2) on who can hold allowances); ITRE 52

<DocAmend>Proposal for a directive</DocAmend>

<Article>Article 1 – paragraph 1 – point 15 – point -a (new)</Article>

<DocAmend2>Directive 2007/87/EC</DocAmend2>

<Article2>Article 12 – paragraph 1</Article2>

Present text

Amendment

(-a) paragraph 1 is replaced by the following:

1. Member States shall ensure that allowances can be transferred between:

(a) *persons* within the Union ;

(b) *persons* within the Union and persons in third countries, where such allowances are recognised in accordance with the procedure referred to in Article 25 without restrictions other than those contained in, or adopted pursuant to, this Directive

1. Member States shall ensure that

allowances can be transferred between:

(a) *regulated entities* within the Union ;

(b) *regulated entities* within the Union and persons in third countries, where such allowances are recognised in accordance with the procedure referred to in Article 25 without restrictions other than those contained in, or adopted pursuant to, this Directive"

Regulated entities may mandate a natural person or a legal entity to operate registry accounts belonging to the regulated entity and conduct all types of transactions to which that account is entitled, on behalf of the regulated entity. Responsibility for compliance remains with the regulated entity. When mandating the natural person or the legal entity, the regulated entity shall ensure that there is no conflict of interest amongst the mandated person or entity and competent authorities, national administrators, verifiers or other bodies subject to the provisions of this Directive."

<DocAmend>Proposal for a directive</DocAmend>

<Article>Article 1 – paragraph 1 – point 19 a (new)</Article>

<DocAmend2>Directive 2003/87/EC</DocAmend2>

<Article2>Article 19 – paragraph 2</Article2>

Present text

2. **Any person** may hold allowances. The registry shall be accessible to the public and shall contain separate accounts to record the allowances held by each **person** to whom and from whom allowances are issued or transferred.

Proposal for a directive
Article 4 – paragraph 1a (new)

Text proposed by the Commission

Amendment

(19a) In Article 19, paragraph 2 is replaced by the following

"2. **Without prejudice to article 12(1b) paragraph 5 of this article, besides the central and national administration accounts, only regulated entities with past, current, or predictable future EU ETS compliance obligations** may hold allowances. The registry shall be accessible to the public and shall contain separate accounts to record the allowances held by each **entity** to whom and from whom allowances are issued or transferred."

Amendment

1. By way of derogation from paragraph 1, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1 ~~(paragraph 1, point (15), point (-a)(new))~~ of this Directive by 1 January 2025 at the latest ~~1~~, following the assessment in accordance with Article 12(-1). They shall forthwith communicate to the Commission the text of those provisions.

Kommentiert [LC1]: Provision below
(DLA to clarify the correct cross-reference)

Kommentiert [LC2]: Provision above
(DLA to clarify the correct cross-reference)

Article 1 – paragraph 1 – point 15 – point -a (new)

Directive 2007/87/EC

Article 12 – paragraph -1 (new)

Present text

Amendment

The Commission shall, by 1 July 2023, present a report to the European Parliament and to the Council in which it shall assess how a ~~potential~~ restriction of access to the European carbon emission allowance markets to regulated entities and financial intermediaries acting on their behalf, would impact on the ~~integrity~~ integrity and effective functioning of the carbon emission allowance markets and on the achievement of the 2030

and 2050 Union energy and climate targets.
Where the assessment is negative, the
Commission shall, where appropriate, present
a legislative proposal to adjust the relevant
provisions in Article 12(1) and 19(2).

Compromise Amendment **27A** **NUCLEAR in modernisation fund**
Article 10(d)(1)(2)
EPP, S&D, RE, Greens, ID, ECR, The Left
Compromise amendment replacing Amendments 1241, 1242 (on Article 10(d)(1)(2))

Proposal for a directive
Article 1 – paragraph 1 – point 14 – point a
Directive 2003/87/EC
Article 10d – paragraph 1 – subparagraph 2a (new)

Text proposed by the Commission

Amendment

No support from the Modernisation Fund shall be provided to nuclear energy related activities.

NB: if adopted, to be added to compromise text to Art 10d(1)(2) on the Modernisation Fund

Compromise Amendment **27B** **NUCLEAR in climate investment fund**
Article 10a(8)(1), Recital 33
EPP, S&D, RE, Greens, ID, ECR, The Left
Compromise amendment replacing Amendments 18, 343, 344, 346, 350, 370 (recital 33) + 67, 1159, 1169, 1173, 1210, 1215 (on Article 10a(8)(1))

Proposal for a directive
Article 1 – paragraph 1 – point 12 – point g
Directive 2003/87/EC
Article 10a – paragraph 8 – subparagraph 1a (new)

Text proposed by the Commission

Amendment

The Climate Investment Fund shall not support nuclear energy-related activities.

NB: if adopted, to be added to compromise text to Art 10a(8)(1) on the Climate Investment Fund

Proposal for a directive
Recital 33a (new)

Text proposed by the Commission

Amendment

(33a) *The Climate Investment Fund should not support nuclear energy-related activities.*

NB: if adopted, to be added to compromise text to Recital 33 on the Climate Investment Fund

<p>Compromise Amendment 27C NUCLEAR in revenues Article 10(d)(1)(2); Article 10a(8)(1), Article 10(3)(1), Recital 33 EPP, S&D, RE, Greens, ID, ECR, The Left Compromise amendment replacing Amendments 851, 900 (on Article 10(3)(1))</p>
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Proposal for a directive

Article 1 – paragraph 1 – point 11 – point b

Directive 2003/87/EC

Article 10 – paragraph 3 – subparagraph 1a (new)

Text proposed by the Commission

Amendment

Member States shall not use their revenues generated from the auctioning of allowances referred to in paragraph 2 for nuclear energy-related activities and technologies.

NB: if adopted, to be added to compromise text to Article 10(3)(1) on the Use of revenues

Compromise Amendment 29 ARTICLE 29A
EPP, S&D, RE, Greens, ID, ECR, The Left
 Compromise amendment replacing Amendments 1385 - 1393 (article 29a),

Proposal for a directive
Article 1 - paragraph 1 - point 19a (new)
 Directive 2003/87/EC
 Article 29a

Present text

Article 29a

Measures in the event of excessive price fluctuations

1. If, for more than six consecutive months, the allowance price is more than **three times** the average price of allowances during the two preceding years on the European carbon market, the Commission shall immediately convene a meeting of the Committee established by Article 9 of Decision No 280/2004/EC.

2. If the price evolution referred to in paragraph 1 does not correspond to changing market fundamentals, one of the following measures may be adopted, taking into account the degree of price evolution:

(a) a measure which allows Member States to bring forward the auctioning of a part of the quantity to be auctioned;

(b) a measure which allows Member States to auction up to 25 % of the remaining allowances in the new entrants reserve.

Those measures shall be adopted in

Amendment

(19b) Article 29a is replaced by the following:

"Article 29a

Measures in the event of excessive price fluctuations

1. If, for more than six consecutive months, the **average** allowance price is more than **twice** the average price of allowances during the two preceding years on the European carbon market, the Commission shall **immediately, and no later than seven days after that point in time, convene a meeting of the Committee established by Article 9 of Decision No 280/2004/EC to assess if the price evolution referred to in this paragraph corresponds to changing market fundamentals** **release 100 million allowances covered by this Chapter from the Market Stability Reserve in accordance with Article 1(7) of Decision (EU) 2015/1814 equally distributed within auctions during a period of six months.**

1a. If, after the period of six months referred to in paragraph 1, the condition in paragraph 1 is still met, the Commission shall immediately, and no later than seven days, convene a meeting of the Committee established by Article 9 of Decision No 280/2004/EC to assess if the price evolution referred to in paragraph 1 corresponds to changing market fundamentals.

2. If the price evolution referred to in

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Kommentiert [MD1]: "two times" is informal "twice" is also used in Article 30h.

Kommentiert [OP2R1]: 'two times' is incorrect

hat formatiert: Schriftart: Fett, Kursiv, Hervorheben

hat formatiert: Schriftart: Fett, Kursiv

Kommentiert [OP3]: this is contradictory coming after 'immediately'; it would be preferable to delete 'immediately'

hat formatiert: Hervorheben

accordance with the management procedure referred to in Article 23(4).

3. Any measure shall take utmost account of the reports submitted by the Commission to the European Parliament and to the Council pursuant to Article 29, as well as any other relevant information provided by Member States.

4. The arrangements for the application of these provisions shall be laid down in the acts referred to in Article 10(4).

paragraph 1 does not correspond to changing market fundamentals, ~~in a matter of urgency~~, any of the following measures *shall be taken*, ~~in a matter of urgency~~, taking into account the degree of price evolution:

(a) ~~the release of 100 million allowances covered by this Chapter from the Market Stability Reserve in accordance with Article 1(7) of Decision (EU) 2015/1814, to be equally distributed within auctions during a period of six months.~~

~~(b)~~ a measure which allows Member States to bring forward the auctioning of a part of the quantity to be auctioned *in a subsequent calendar year*;

~~(c)~~ a measure which allows Member States to auction up to 25 % of the remaining allowances in the new entrants reserve.

Those measures shall be adopted in accordance with the management procedure referred to in Article 23(4).

3. Any measure shall take utmost account of the reports submitted by the Commission to the European Parliament and to the Council pursuant to Article 29, as well as any other relevant information provided by Member States.

4. The arrangements for the application of these provisions shall be laid down in the acts referred to in Article 10(4)."

hat formatiert: Hervorheben

Kommentiert [LC4]: Please note that already under the current excessive price mechanism, any decision under points (b) or (c) leads to the automatic release of 100 mn allowances from MSR (see Article 1(7) MSR). The proposal is to move this forward to a direct decision to be taken, which also provides more transparency.

Or. en

Proposal for a directive Recital 42 b (new)

Text proposed by the Commission

Amendment

(42b) Unexpected or sudden market volatility or excessive price shocks on the ~~Union~~ EU carbon market, for example, as a result of sudden changes in market behaviour or excessive speculation, negatively affect market predictability and

Kommentiert [OP5]: we specify 'carbon' here but only refer to 'market volatility' in the first line - are we not referring to the same 'market' in both cases?

delete 'carbon'

hat formatiert: Hervorheben

the stable investment climate which is essential for the planning of decarbonisation and innovation investments. Therefore, the measures that apply in the event of excessive price fluctuations ~~will should~~ be strengthened in a careful targeted manner to improve the assessment of and reaction to unwarranted price evolutions. ~~These~~Such targeted improvements should ~~continue to~~ ensure the continued proper functioning of the carbon markets, including the role of intermediaries and financial actors in providing liquidity to the market and market access for compliance actors, in particular notably SMEs, while ~~avoiding~~ addressing unexpected or sudden volatility or price shocks not related to market fundamentals.

Kommentiert [OP6]: see comment at the start of this recital; the use of 'carbon' seems inconsistent

hat formatiert: Hervorheben

Compromise Amendment 30 ARTICLE 30

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 818, 1398-1401, 1404 (Article 30)

Note: paragraph 2 not covered, will be discussed together with CBAM compromise

Proposal for a directive

Article 1 – paragraph 1 – point 19 e (new)

Directive 2003/87/EC

Article 30 – paragraph 1

Text proposed by the Commission

Amendment

1. This Directive shall be kept under review in the light of international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement.

1. This Directive shall be kept under review in the light of international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement, including the commitment taken at the 26th Conference of the Parties to the United Nations Framework Convention on Climate Change (COP26) to limit the temperature increase to 1,5°C above pre-industrial levels.

Kommentiert [LC1]: TM: based on Greens 1398

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 19 e (new)

Directive 2003/87/EC

Article 30 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall report to the European Parliament and to the Council in the context of each global stocktake agreed under the Paris Agreement, in particular with regard to the need for additional Union policies and measures in view of necessary greenhouse gas reductions by the Union and its Member States, including in relation to the linear factor referred to in Article 9. The Commission may make proposals to the European Parliament and to the Council to amend this Directive

3. The Commission, supported by having sought the advice of the European Scientific Advisory Board on Climate Change established referred to in Article 3 of Regulation (EU) 2021/1119, shall report to the European Parliament and to the Council in the context of each global stocktake agreed under the Paris Agreement, in particular with regard to the need for additional Union policies and measures in view of necessary greenhouse gas reductions by the Union and its

Kommentiert [LC2]: DLA redrafting

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where appropriate.

Member States, including in relation to the linear factor referred to in Article 9. The Commission may make proposals to the European Parliament and to the Council to amend this Directive where appropriate.

~~The~~ *In its proposals, the Commission shall ensure compliance with the climate-neutrality objective, the Union climate targets as laid down in Regulation (EU) 2021/1119, and the indicative Union greenhouse gas budget for the 2030-2050 period as referred to in Article 4(4) of Regulation EU 2021/1119. The proposals shall reflect progression over time, and reflect its highest possible ambition in accordance with Article 4(3) of the Paris Agreement.*

Kommentiert [LC3]: DLA redrafting

Kommentiert [LC4]: RE 1401, LEFT 1400
Text copied from Article 4(3) Paris Agreement

Proposal for a directive
Article 1 – paragraph 1 – point 19 e (new)
Directive 2003/87/EC
Article 30 – paragraph 4

Text proposed by the Commission

4. Before 1 January 2020, the Commission shall present an updated analysis of the non-CO2 effects of aviation, accompanied, where appropriate, by a proposal on how best to address those effects.

Amendment

4. Before 1 January 2020, the Commission shall present an updated analysis of the non-CO2 effects of aviation, accompanied, where appropriate, by a proposal on how best to address those effects.

4a. When reviewing this Directive, in accordance with paragraphs 1 to 3, the Commission shall analyse how linkages between the EU ETS and with other carbon markets can be established, while ensuring without impeding on the achievement of the climate-neutrality objective and the Union climate targets as laid down in Regulation (EU) 2021/1119 Union's economy-wide climate target.

Kommentiert [LC5]: DLA redrafting

Compromise Amendment ETS 2 v10/05/2022 VERSION AB
EPP, S&D, RE, Greens, ID, ECR, The Left
Compromise amendment replacing Amendments 1406-1530, 1672-1685 (Chapter IVa + Annex III); 1574-1585 (article 1a MSR); 159, 360, 415-532, 534-597, 600-605, 621, 624-628, 631 (recitals)

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Outline of the compromise:

Part 1: core provisions (p. 2-16)

1. **Commercial 2025, with private 2029 after assessment** (p. 2)
 - a. **Commission assessment and proposal**
 - b. **+ emergency break - delay until price below threshold if too high**
2. **Commercial 2025: additional provisions** (p. 5)
 - a. extension to **other fuels** (from start)
 - b. **price cap of 50 EUR** (from start)
 - c. **excessive price mechanism (no changes to Commission proposal)**
3. **Private: additional provisions** (p. 11)
 - a. **50% cost pass-on limit**
 - b. **conditional opt-in for Member States** to start at 2025, conditional upon measures in place to address energy/mobility poverty and COM approval
4. **Social Climate Fund** (p. 15)
 - a. **entire amount of ETS 2 own resources** to Social Climate Fund
 - b. **entire amount of ETS 2 national resources** allocated to Social Climate Fund and ring-fenced for social climate measures
 - c. Member States required to **report on all spending** of these revenues
 - d. **frontloading** of Social Climate Fund by at least 2 years
 - e. **150 million allowances auctioned for SCF instead of IF**

Part 2: alignments (articles) with core provisions (p. 17)

Part 3: alignments (recitals) with core provisions (p. 18)

Part 1: core provisions

1. Commercial 2025
2. Private 2029 after Commission assessment
3. emergency break

COMMERCIAL 2025, WITH PRIVATE 2029 AFTER ASSESSMENT

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30a

Text proposed by the Commission

The provisions of this Chapter shall apply to emissions, greenhouse gas emission permits, issue and surrender of allowances, monitoring, reporting and verification in respect of the activity referred to in Annex III. This Chapter shall not apply to any emissions covered by Chapters II, IIa and III.

Amendment

The provisions of this Chapter shall apply to emissions, greenhouse gas emission permits, issue and surrender of allowances, monitoring, reporting and verification in respect of the activity referred to in Annex III. This Chapter shall not apply to any emissions covered by Chapters II, IIa and III.

~~By way of derogation from the first paragraph, the provisions of this Chapter shall apply in respect of the release for consumption of fuels which are used for combustion in private road transport and private heating or cooling of residential buildings only from 1 January 2028~~ 2029 subject to the assessment in Article 30a(1a) (new).

Kommentiert [CLM1]: Private 2029 SUBJECT TO ASSESSMENT

hat formatiert: Hervorheben

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30a – paragraph 1a (new)

If the conditions are right, the Commission shall aim to extend this Chapter to emissions from private road transport and private heating and cooling for residential buildings as of 1 January 2029.

By 1 January 2026, the Commission shall present a report to the European Parliament and the Council assessing the extension of this Chapter to emissions from private road transport and private heating and cooling for residential buildings as of 1 January 2029 in a manner that leaves no one behind. In particular, that report shall include:

(a) a detailed assessment of the evolution of energy and mobility poverty in the Union and in each Member State as reported according to Article 23(1) of Regulation (EU) .../... [Social Climate Fund Regulation];

(b) a detailed assessment of the results of the measures and investments included in the Member States Social Climate Plans, in particular as regards the number of people that were lifted out of energy and mobility poverty as a result of those measures and investments, and of other investments from other Union funds;

(c) a detailed analysis and quantification of the additional greenhouse gas emissions reduction that could be achieved through this extension, as well as the progress of Member States toward the achievement the (ESR Regulation) targets;

(d) an assessment of the feasibility and modalities of the cost pass-on reporting and limit mechanism in article 30f(2a);

Based on the results of that report, the Commission shall, where appropriate, present a targeted review of this Directive and of the [Social Climate Fund Regulation] to extend this Chapter to emissions from private road transport and private heating and cooling for residential buildings as of 1 January 2029.

EMERGENCY BREAK

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2003/87/EC
Article 30a a (new)

Text proposed by the Commission

Amendment

Article 30a a (new)

(1) Where, in the six consecutive months preceding the year of start of auctioning for fuels which are used for combustion in private road transport and private heating or cooling of residential buildings in accordance with article 30, second paragraph, the average price of the fuels for consumption in the sectors covered by this Chapter is more than the average price of March 2022 the deadline for surrendering allowances in respect of fuels which are used for combustion in private road transport and private heating or cooling of residential buildings, referred to in Article 30d(12), shall be extended until the price goes below this threshold.

By derogation from paragraph 1, in the event that the Fund established by the [Social Climate Fund Regulation] has not commenced operating, or has operated for less than three years, the auctioning of allowances covered by this Chapter shall be delayed until that Fund has been operational for at least 3 years.

(2) If applicable, the Commission shall publish that the condition in paragraph 1 is met before the start of the auctions under this Chapter.

Kommentiert [CLM2]: Emergency break/price assessment:

Article for "Postponement of initial compliance for emissions trading for road and building in the event of continued high energy prices" (or commencement)

Delay the surrendering deadline rather than the start of the system as such. This would still address the price at the beginning, but would already allow the start of monitoring and reporting, which is key for the functioning of the system and revision of the cap in 2028.

Options for modalities:

Commission suggests comparing to an average price rather than a fixed one (option 2). The conditionality to 3x higher compared to the 5 year historical average would mean that current gas price increases would have led to triggering it. Other option would be to take the peak prices of March 2022 (option 1).

- 2. Commercial 2025**
 - a. extension to other fuels**
 - b. price cap**
 - c. excessive price mechanism**

COMMERCIAL 2025

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30d – paragraph 1

Text proposed by the Commission

1. From 2026, allowances covered by this Chapter shall be auctioned, unless they are placed in the Market Stability Reserve established by Decision (EU) 2015/1814. The allowances covered by this Chapter shall be auctioned separately from the allowances covered by Chapters II, IIa and III.

Amendment

1. From **2025**, allowances covered by this Chapter shall be auctioned, unless they are placed in the Market Stability Reserve established by Decision (EU) 2015/1814. The allowances covered by this Chapter shall be auctioned separately from the allowances covered by Chapters II, IIa and III.

Kommentiert [LC3]: Commercial 2025

EXTENSION TO OTHER FUELS

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Chapter IVa – title

Text proposed by the Commission

EMISSIONS TRADING SYSTEM FOR BUILDINGS **AND** ROAD TRANSPORT

Amendment

EMISSIONS TRADING SYSTEM FOR BUILDINGS, ROAD TRANSPORT **AND OTHER FUELS**

Kommentiert [CLM4]: Extension to other fuels

Or. en

Directive 2003/87/EC

Chapter IVa

Text proposed by the Commission

Amendment

(-1a) Throughout this Chapter, the term ‘fuel released for consumption and which is used for combustion in the buildings and

road transport sectors as defined in Annex III' is replaced by 'fuel released for consumption in the sectors as defined in Annex III' and any necessary grammatical changes are made.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Proposal for a directive
Annex – paragraph 1 – point 2
Directive 2003/87/EC
Annex III – table

Text proposed by the Commission

Activity:

Greenhouse gases

1. Release for consumption of fuels which are used for combustion *in the sectors of buildings and road transport.*

Carbon dioxide (CO₂)

This activity shall not include:

(a) the release for consumption of fuels used in the activities set out in Annex I to this Directive, except if used for combustion in the activities of transport of greenhouse gases for geological storage (activity row twenty seven);

(b) the release for consumption of fuels for which the emission factor is zero.

2. The sectors of buildings and road transport shall correspond to the following sources of emissions, defined in 2006 IPCC Guidelines for National Greenhouse Gas Inventories, with the necessary modifications to those definitions as follows:

(a) Combined Heat and Power Generation (CHP) (source category code 1A1a ii) and Heat Plants (source category code 1A1a iii), insofar as they produce heat for

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categories under (c) and (d) of this point, either directly or through district heating networks;

(b) Road Transportation (source category code 1A3b), excluding the use of agricultural vehicles on paved roads;

(c) Commercial / Institutional (source category code 1A4a);

(d) Residential (source category code 1A4b).

Amendment

Activity: Greenhouse gases
Release for consumption of fuels which are used for combustion. Carbon dioxide (CO₂)

This activity shall not include:

(a) the release for consumption of fuels used in the activities set out in Annex I to this Directive, except if used for combustion in the activities of transport of greenhouse gases for geological storage (activity row twenty seven);

(b) the release for consumption of fuels for which the emission factor is zero.

(c) the release for consumption of fuels used in agriculture.

(d) the release for consumption of fuels used in ships or activities under Article 2(2) in Regulation (EU) 2015/757.

(e) the release for consumption of fuels used in the activity "Aviation" of Annex I of this Directive.

(f) the release for consumption of fuels used for private road transport and for residential buildings until 1 January 2029, subject to the assessment in Article 30(1a);

Or. en

PRICE CAP

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Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2003/87/EC
Article 30h – paragraph 2 a (new)

Text proposed by the Commission

Amendment

Kommentiert [CLM5]: Price cap

2a. Where, prior to 1 January 2030, every time the average price of allowances referred to in paragraph 1 exceeds a price cap of ~~55~~ 50 EUR, the Commission shall, as a matter of urgency, adopt a decision to release 10 million allowances covered by this Chapter from the Market Stability Reserve in accordance with Article 1a(7) of Decision (EU 2015/1814.

Where, prior to 1 January 2030, the average price of allowance referred to in paragraph 1 exceeds 45 EUR, the Commission and Member States shall, as a matter of urgency, take further measures to reduce carbon dioxide emissions in order to avoid reaching the price cap referred to in the first subparagraph.

In the event of application of paragraph 1 or 2, the application of this paragraph shall be suspended during that period.

Or. en

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2003/87/EC
Article 30i – paragraph 1

Text proposed by the Commission

By 1 January 2028, the Commission shall report to the European Parliament and to the Council on the implementation of the provisions of this Chapter with regard to their effectiveness, administration and practical application, including on the application of the rules under Decision (EU) 2015/1814 and use of allowances of this Chapter to meet compliance obligations of the compliance entities covered by Chapters II, IIa and III. Where appropriate, the Commission shall accompany this report with a proposal to the

Amendment

By 1 January 2028, the Commission shall report to the European Parliament and to the Council on the implementation of the provisions of this Chapter with regard to their effectiveness, administration and practical application, including on the application of the rules under Decision (EU) 2015/1814 and use of allowances of this Chapter to meet compliance obligations of the compliance entities covered by Chapters II, IIa and III. Where appropriate, the Commission shall accompany this report with a proposal to the

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European Parliament and to the Council to amend this Chapter. By 31 October 2031 the Commission should assess the feasibility of integrating the sectors covered by Annex III in the Emissions Trading System covering the sectors listed in annex 1 of Directive 2003/87/EC.”;

European Parliament and to the Council to amend this Chapter.

By 1 January 2029, the Commission shall present a report to the European Parliament and to the Council in which it assesses whether the price cap referred to in Article 30h(2a), first subparagraph, has been effective and whether it should be continued. The Commission shall, where appropriate, accompany that report with a legislative proposal to the European Parliament and to the Council to amend this Directive to adjust that price cap, in due time for it to apply from 1 January 2030.

By 31 October 2031 the Commission should assess the feasibility of integrating the sectors covered by Annex III in the Emissions Trading System covering the sectors listed in annex 1 of Directive 2003/87/EC.”;

Or. en

EXCESSIVE PRICE MECHANISM

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30h – paragraph 1

Text proposed by the Commission

Amendment

Kommentiert [LC6]: Excessive price mechanism: no change to Commission proposal

1. Where, for more than three consecutive months, the average price of allowance in the auctions carried out in accordance with the act adopted under Article 10(4) is more than twice the average price of allowance during the six preceding consecutive months in the auctions for the allowances covered by this Chapter, the Commission shall, as a matter of urgency, adopt a decision to release 50 million allowances covered by this Chapter from the Market Stability Reserve in accordance with Article 1a(7) of Decision (EU) 2015/1814.

2. Where, for more than three consecutive months, the average price of allowance in the auctions carried out in accordance with the act adopted under Article 10(4) is more than three times the average price of allowance during the six preceding consecutive months in the

1. Where, for more than three consecutive months, the average price of allowance in the auctions carried out in accordance with the act adopted under Article 10(4) is more than twice the average price of allowance during the six preceding consecutive months in the auctions for the allowances covered by this Chapter, the Commission shall, as a matter of urgency, adopt a decision to release 50 million allowances covered by this Chapter from the Market Stability Reserve in accordance with Article 1a(7) of Decision (EU) 2015/1814.

2. Where, for more than three consecutive months, the average price of allowance in the auctions carried out in accordance with the act adopted under Article 10(4) is more than three times the average price of allowance during the six preceding consecutive months in the

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auctions for the allowances covered by this Chapter, the Commission shall, as a matter of urgency, adopt a decision to release 150 million allowances covered by this Chapter from the Market Stability Reserve in accordance with Article 1a(7) of Decision (EU) 2015/1814.

Or. en

AVOIDING DOUBLE COUNTING

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30f – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that the regulated entities are able to identify and document reliably and accurately per type of fuel, the precise volumes of fuel released for consumption which are used for combustion in the buildings and road transport sectors as identified in Annex III, and the final use of the fuels released for consumption by the regulated entities. The Member States shall take appropriate measures to avoid any risk of double counting of emissions covered under this Chapter and the emissions under Chapters II, IIa and III. Detailed rules for avoiding double counting shall be adopted in accordance with Article 14(1).

Amendment

4. Member States shall ensure that the regulated entities are able to identify and document reliably and accurately per type of fuel, the precise volumes of fuel released for consumption pursuant to Annex III, and the final use of the fuels released for consumption by the regulated entities. The Member States shall take appropriate measures to avoid any risk of double counting of emissions covered under this Chapter and the emissions under Chapters II, IIa and III. Detailed **and harmonised** rules for avoiding double counting shall be adopted in accordance with Article 14(1).

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30f – paragraph 4 a (new)

Text proposed by the Commission

4a. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by setting out the Union-wide and fully harmonised rules regarding compensation

Amendment

Kommentiert [CLM7]: Avoidance of double accounting (1): ex-ante:

Where there is a direct trade relation between the addressee of the Fuel-ETS (regulated entity) and the addressee of the EU-ETS (operator), double counting can be avoided ex ante by relying on the monitoring regulation, as both parties report the emissions in regard to the same fuel. In this instance, the addressee of the Fuel-ETS can merely be exempt from the duty to surrender allowances for the emissions already covered by the EU-ETS if the Monitoring & Reporting Regulation provides for EU-wide harmonized appropriate rules avoiding the risk of double counting. The according amendments can be found in Art. 30f (4).

Kommentiert [CLM8]: Avoidance of double accounting (2): ex-post:

In contrast, where commercial chains of the reported emissions of the same fuel cannot be linked as such, since the distribution cannot be traced back, thus making it impossible to address double counting ex ante. The emissions, which have been reported under both systems, can, however, be defined in total when all emissions have been reported for in both systems. This allows for an ex post compensation for the addressee of the EU-ETS. The according amendments to the COM proposal can be found in Art. 30f (4a) lit. a).

of costs arising from double accounting for operators of installations pursuant to Article 3e that are incurred from costs passed on in fuel prices concerning emissions from the combustion of fuels and provided that those emissions are reported by the operator pursuant to Article 14 as well as the regulated entity pursuant to this Article and that the double counting is not avoided pursuant to paragraph 4 of this Article; the calculation of the compensation amount shall be based on the average price of allowances auctioned pursuant to Article 30d(4) in the reporting year concerned pursuant to this Article; the revenues generated from the auctioning of allowances covered by this Chapter shall, to the extent necessary and up to a level corresponding to the double counting in the reporting year pursuant to this Article, be used for the compensation amount;

Or. en

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2003/87/EC
Article 30c – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by setting out an additional amount of allowances to be issued for each year from 2025 onwards to compensate for allowances surrendered in cases where there was double counting of emissions notwithstanding rules to avoid such double counting as referred to in Article 30f(4). The additional amount of allowances set by the Commission shall correspond to the total amount of greenhouse gas emissions compensated for in the relevant reporting year pursuant to the delegated acts referred to in Article 30f(4a), point (a).

Or. en

Kommentiert [CLM9]: Rolling cap correction in case of double counting

- 3. Private: additional elements**
- a. 50% cost pass-on limit**
 - b. conditional opt-in for Member States to start private in 2025, but conditional upon having sufficient measures to address energy/mobility poverty in place Commission approval**

COST PASS-ON LIMITATION

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30f – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Subject to the assessment in Article 30a(1a)(d), from one year before the date of application of this Chapter in respect of fuels which are used for combustion in private road transport and private heating or cooling of residential buildings ~~1 January 2025~~ and every month thereafter, regulated entities shall report to the Commission a breakdown of the costs going into the retail price of the fuels released for consumption pursuant to Annex III, including in particular the share of national taxes and fees and costs related to the surrender of allowances in the retail price, as well as the percentage of the costs related to the surrender of allowances which is passed on to the end consumer. Where this percentage changes by more than 5 % points compared to the last reporting period, an explanation shall be provided.

By ... [the date of entry into force of this Chapter], the Commission shall adopt an implementing act setting out the reporting categories and format to be used for reporting in accordance with the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

2b. From the date of application of this Chapter in respect of fuels which are used for combustion in private road transport and private heating or

Kommentiert [CLM10]: Schaldemoose 1488; de Lange 1489, 1491, 1492; Rapporteur 104

Reporting from 2025
50% limit from (when private starts)

cooling of residential buildings] or, if a Member State in accordance with Article 30a, third paragraph, has decided that the derogation referred to in the second paragraph of that Article does not apply, from xx, Regulated entities shall not pass on more than 50% of the costs related to the surrender of allowances for fuels released for consumption pursuant to Annex III to the final consumer.

2c. Where the Commission finds that a regulated entity has passed on a share of costs higher than 50 %, that entity shall pay a penalty into the Social Climate Fund established by Regulation (EU) 20.../nn [Social Climate Fund Regulation] in accordance with Article 16. The penalty amount shall be calculated on the basis of the quantity of allowances equivalent to the excess passthrough in accordance with this paragraph, multiplied by the highest recorded primary or secondary market settlement price for allowances under this Chapter in the preceding year. Each year by 28 February, the Commission shall communicate the excess passthrough penalty price. The revenues generated from penalties referred to in paragraph 2b shall be allocated to the Social Climate Fund referred to in Regulation (EU) 20.../nn [Social Climate Fund Regulation].

Or. en

PRIVATE OPT-IN

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2003/87/EC
Article 30d – paragraph 1b (new)

Text proposed by the Commission

Amendment

A Member State may decide that the derogation in respect of fuels which are used for combustion in private road transport and private heating or cooling of residential buildings referred to in the second paragraph shall not apply within its territory, provided that it has sufficient programmes in place to support low income households and to address energy and mobility poverty and subject to approval by the Commission. The Member State concerned shall inform the Commission if it intends to take such a decision. The Commission shall assess whether the Member State has sufficient programmes in place for those purposes and inform the Member State of its decision.

5. Social Climate Fund

- a. entire amount of ETS 2 own resources to Social Climate Fund**
- b. entire amount of ETS 2 national resources allocated to Social Climate Fund and ring-fenced for social climate measures**
- c. Member States required to report on all spending of these revenues**
- d. frontloading of Social Climate Fund by at least 2 years**
- e. 150 million allowances auctioned for SCF instead of for IF**

150 MILLION (3.4% of total ETS 2) ETS 2 ALLOWANCES AUCTIONED FOR SOCIAL CLIMATE FUND (INSTEAD OF IF)

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30d – paragraph 3

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Text proposed by the Commission

3. 150 million allowances issued under this Chapter shall be auctioned and all revenues from these auctions made available for the Innovation Fund established under Article 10a(8). Article 10a(8) shall apply to the allowances referred to in this paragraph.

Amendment

3. 150 million allowances issued under this Chapter shall be auctioned and all revenues from these auctions made available for the ~~Innovation Fund~~ Social Climate Fund established under ~~Article 10a(8). Article 10a(8) shall apply to the allowances referred to in this paragraph~~ Regulation (EU) 2018/1046 of the European Parliament and of the Council, and shall be used in accordance with the rules applicable to the Social Climate Fund.

Kommentiert [CLM11]: Transfer 150 million allowances to SCF instead of to IF.

ENTIRE AMOUNT OF ETS 2 OWN RESOURCES TO SOCIAL CLIMATE FUND (ANNUAL ADJUSTMENT MECHANISM)

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30d – paragraph 3a (new)

Text proposed by the Commission

Amendment

3 a. In order to ensure that the available appropriations for the Social Climate Fund in the EU budget can evolve in close alignment with the carbon price and thus the burden for vulnerable households and traffic users, a Carbon Price Fluctuation Adjustment Mechanism will enable annual reinforcements. The detailed provisions are to be provided for in the Multiannual Financial Framework Regulation, which, in accordance with Article 312 TFEU, will ensure that the relevant expenditure ceilings are adjusted automatically each year in function of the rate of change of the carbon price under the ETS for Buildings and Road Transport. The budgetary impact of the annual adjustment will be budgeted.

Kommentiert [CLM12]: BUDG opinion as adopted on 20/04 by EPP, S&D, RE, Greens: annual reinforcement mechanism to ensure that full amount of ETS 2 own resource is allocated to the SCF

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30d – paragraph 4

Text proposed by the Commission

4. The total quantity of allowances covered by this Chapter after deducting the quantities set out in paragraph 3, shall be auctioned by the Member States and distributed amongst them in shares that are identical to the share of reference emissions under Article 4(2) of Regulation (EU) 2018/842 for the sectors covered by this Chapter for the average of the period from 2016 to 2018, of the Member State concerned.

Amendment

4. The total quantity of allowances covered by this Chapter after deducting the quantities set out in paragraphs 3, shall be auctioned by the Member States and distributed amongst them in shares that are identical to the share of reference emissions under Article 4(2) of Regulation (EU) 2018/842 for the sectors covered by this Chapter for the average of the period from 2016 to 2018, of the Member State concerned.

Or. en

ENTIRE AMOUNT OF ETS 2 NATIONAL RESOURCES ALLOCATED TO SOCIAL CLIMATE FUND AND RING-FENCED FOR SOCIAL

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CLIMATE MEASURES

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30d – paragraph 5 – subparagraph 1 – introductory part

Text proposed by the Commission

5. Member States shall determine the use of revenues generated from the auctioning of allowances referred to in paragraph 4, except for the revenues established as own resources in accordance with Article 311(3) TFEU and entered in the Union budget. Member States shall use their revenues for **one or more of the activities referred to in Article 10(3) or** for one or more of the following:

Amendment

5. Member States shall determine the use of revenues generated from the auctioning of allowances referred to in paragraph 4, except for the revenues established as own resources in accordance with Article 311(3) TFEU and entered in the Union budget **as general income**. Member States shall use their revenues **first for the national co-financing of their Social Climate Plans and, for any remaining revenue, for social climate measures and investments in accordance with Article 6 of Regulation (EU) 20.../nn [Social Climate Fund Regulation]**:

Kommentiert [CLM13]: Member State share of ETS 2 auctioning revenue to be used first to meet national co-financing requirements under the Social Climate Fund, second (where still available) for similar social climate measures as those listed in the Social Climate Fund.

Kommentiert [CLM14]: BUDG opinion

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30d – paragraph 5 – subparagraph 1 – point a

Text proposed by the Commission

(a) measures intended to contribute to the **decarbonisation** of heating and cooling of buildings or to the reduction of the energy needs of buildings, **including the integration of renewable energies and related measures according to Articles 7(11), 12 and 20 of Directive 2012/27/EU [references to be updated with the revised Directive], as well as measures to provide financial support for low-income households in worst-performing buildings;**

Amendment

(a) measures intended to contribute to the **climate neutrality** of heating and cooling of buildings or to the reduction of the energy needs of buildings **in accordance with Article 6 of Regulation (EU) 20.../nn [Social Climate Fund Regulation]**;

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30d – paragraph 5 – subparagraph 1 – point b

Text proposed by the Commission

(b) measures intended to accelerate the uptake of zero-emission vehicles or to provide financial support for the deployment of fully interoperable refuelling and recharging infrastructure for zero-emission vehicles or measures to encourage a shift to public forms of transport and improve multimodality, or to provide financial support in order to address social aspects concerning low and middle-income transport users.

Amendment

(b) measures intended to accelerate the uptake of zero-emission vehicles or to provide financial support for the deployment of fully interoperable refuelling and recharging infrastructure for zero-emission vehicles or measures to encourage a shift to public forms of transport and improve multimodality **in accordance with Article 6 of Regulation (EU) 2021/1056 [Social Climate Fund Regulation]**.

Or. en

FRONTLOADING OF SOCIAL CLIMATE FUND BY AT LEAST 2 YEARS

For information - earlier start of Social Climate Fund, as in Social Climate Fund draft CA 18, state of play 20/04/2022:

Proposal for a regulation

Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. After the Commission has adopted a decision as referred to in Article 16, it shall in due time conclude an agreement with the Member State concerned constituting an individual legal commitment within the meaning of Regulation (EU, Euratom) 2018/1046 covering the period from [the date of entry into force of this Regulation]

Proposal for a directive
Recital 52

Text proposed by the Commission

(52) The introduction of the carbon price in road transport and buildings should be accompanied by effective social compensation, especially in view of the already existing levels of energy poverty. About 34 million Europeans reported an inability to keep their homes adequately warm in 2018, and 6,9 % of the Union population have said that they cannot afford to heat their home sufficiently in a 2019 EU-wide survey¹. To achieve an effective social and distributional compensation, Member States should be required to spend the auction revenues on the climate and energy-related purposes already specified for the existing emissions trading, but also for measures added specifically to address related concerns for the new sectors of road transport and buildings, including related policy measures under Directive 2012/27/EU of the European Parliament and of the Council². Auction revenues should be used to address social aspects of the emission trading for the new sectors with a specific emphasis in vulnerable households, micro-enterprises and transport users. In this spirit, a new Social Climate

Amendment

(52) The introduction of the carbon price in road transport and buildings should be accompanied by effective social compensation, especially in view of the already existing levels of energy poverty. About 34 million Europeans reported an inability to keep their homes adequately warm in 2018, and 6,9 % of the Union population have said that they cannot afford to heat their home sufficiently in a 2019 EU-wide survey⁴. To achieve an effective social and distributional compensation, Member States should be required to spend the auction revenues on the climate and energy-related purposes already specified for the existing emissions trading, but also for measures added specifically to address related concerns for the new sectors of road transport and buildings, including related policy measures under Directive 2012/27/EU of the European Parliament and of the Council⁵. Auction revenues should be used to address social aspects of the emission trading for the new sectors with a specific emphasis in vulnerable households, micro-enterprises and transport users. In this spirit, a new Social Climate

¹ Data from 2018. Eurostat, SILC [ilc_mdcs01].

² Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1–56).

⁴ Data from 2018. Eurostat, SILC [ilc_mdcs01].

⁵ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1–56).

Fund will provide dedicated funding to Member States to support the European citizens most affected or at risk of energy or mobility poverty. This Fund will promote fairness and solidarity between and within Member States while mitigating the risk of energy and mobility poverty during the transition. It will build on and complement existing solidarity mechanisms. The resources of the new Fund will in principle correspond to 25 % of the expected revenues from new emission trading in the period 2026-2032, and will be implemented on the basis of the Social Climate Plans that Member States should put forward under Regulation (EU) 20.../nn of the European Parliament and the Council³. In addition, each Member State should use their auction revenues *inter alia* to finance a part of the costs of their Social Climate Plans.

Fund will provide dedicated funding to Member States to support the European citizens most affected or at risk of energy or mobility poverty.

This Fund should be an integral part of the EU budget in order to preserve the unity of the budget and the coherence with EU policies and to ensure an effective control by the budgetary authority, composed of the Parliament and the Council.

This Fund will promote fairness and solidarity between and within Member States while mitigating the risk of energy and mobility poverty during the transition. It will build on and complement existing solidarity mechanisms. The resources of the new Fund will in principle correspond to 25 % of the expected revenues from new emission trading in the period 2026-2032, and will be implemented on the basis of the Social Climate Plans that Member States should put forward under Regulation (EU) 20.../nn of the European Parliament and the Council⁶.

The programmed baseline allocation in the EU budget should be increased annually by a supplementary reinforcement in the event of an increase of carbon price to a level higher than the initial assumption, as it would raise the burden on the vulnerable households and traffic users. To ensure that the impact of carbon price increases on the most vulnerable is adequately and fairly mitigated, such annual reinforcements should be accommodated within the MFF by means of an automatic 'carbon price fluctuation adjustment' of the ceiling of Heading 3 and the payment ceiling, the mechanism for

Kommentiert [CLM15]: BUDG opinion

³ [Add ref to the Regulation establishing the Social Climate Fund].

⁶ [Add ref to the Regulation establishing the Social Climate Fund].

which is to be provided for in the MFF regulation according to Article 312 TFEU. In addition, each Member State should use their auction revenues *inter alia* to finance a part of the costs of their Social Climate Plans.

Kommentiert [CLM16]: BUDG opinion

Part 2: alignments (articles) with core provisions in part 1

Relevant parts of articles to be aligned with decision on core provisions (dates in particular to be adjusted):

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30a

Text proposed by the Commission

The provisions of this Chapter shall apply to emissions, greenhouse gas emission permits, issue and surrender of allowances, monitoring, reporting and verification in respect of the activity referred to in Annex III. This Chapter shall not apply to any emissions covered by Chapters II, IIa and III.

Amendment

The provisions of this Chapter shall apply to emissions, greenhouse gas emission permits, issue and surrender of allowances, monitoring, reporting and verification in respect of the activity referred to in Annex III. This Chapter shall not apply to any emissions covered by Chapters II, IIa and III.

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30b – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, from 1 January 2025, no regulated entity carries out the activity referred to in Annex III unless that regulated entity holds a permit issued by a competent authority in accordance with paragraphs 2 and 3.

Amendment

1. Member States shall ensure that, from 1 January **2024**, no regulated entity carries out the activity referred to in Annex III unless that regulated entity holds a permit issued by a competent authority in accordance with paragraphs 2 and 3.

Kommentiert [CLM17]: Start auctioning from 2025 (commercial)

- private derogation: see further down under title 2

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 21

Directive 2003/87/EC

Article 30c – paragraph 1

Text proposed by the Commission

1. The Union-wide quantity of allowances issued under this Chapter each year from 2026

Amendment

1. The Union-wide quantity of allowances issued under this Chapter each year from **2025**

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shall decrease in a linear manner beginning in 2024. The 2024 value shall be defined as the 2024 emissions limits, calculated on the basis of the reference emissions under Article 4(2) of Regulation (EU) 2018/842 of the European Parliament and of the Council(*) for the sectors covered by this Chapter and applying the linear reduction trajectory for all emissions within the scope of that Regulation. The quantity shall decrease each year after 2024 by a linear reduction factor of 5,15 %. By 1 January 2024, the Commission shall publish the Union-wide quantity of allowances for the year 2026.

shall decrease in a linear manner beginning in 2024. The 2024 value shall be defined as the 2024 emissions limits, calculated on the basis of the reference emissions under Article 4(2) of Regulation (EU) 2018/842 of the European Parliament and of the Council(*) for the sectors covered by this Chapter and applying the linear reduction trajectory for all emissions within the scope of that Regulation. The quantity shall decrease each year after 2024 by a linear reduction factor of 5,15 %. By 1 January 2024, the Commission shall publish the Union-wide quantity of allowances for the year **2025**.

(*) Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

(*) Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 22

Directive 2003/87/EC

Article 30d – paragraph 2

Text proposed by the Commission

Amendment

2. The auctioning of the allowances under this Chapter shall start in 2026 with a volume corresponding to 130 % of the auction volumes for 2026 established on the basis of the Union-wide quantity of allowances for that year and the respective auction shares and volumes pursuant to paragraph 3, 5 and 6. The additional volumes to be auctioned shall only be used for surrendering allowances pursuant to Article 30e(2) and be deducted from the auction volumes for the period from 2028 to 2030. The conditions for these early auctions shall be set in accordance with paragraph 7 and Article 10(4).

In 2026, 600 million allowances covered by this Chapter are created as holdings in the

2. The auctioning of the allowances under this Chapter shall start in 2026 with a volume corresponding to 130 % of the auction volumes for **2025** established on the basis of the Union-wide quantity of allowances for that year and the respective auction shares and volumes pursuant to paragraph 3, 5 and 6. The additional volumes to be auctioned shall only be used for surrendering allowances pursuant to Article 30e(2) and be deducted from the auction volumes for the period from 2028 to 2030. The conditions for these early auctions shall be set in accordance with paragraph 7 and Article 10(4).

In **2025**, 600 million allowances covered by this Chapter are created as holdings in the

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Market Stability Reserve pursuant to Article 1a(3) of Decision (EU) 2015/1814.

Market Stability Reserve pursuant to Article 1a(3) of Decision (EU) 2015/1814.

Or. en

Proposal for a directive

Article 1 – paragraph 1 – point 23

Directive 2003/87/EC

Article 30e – paragraph 2

Text proposed by the Commission

Amendment

2. From 1 January 2027, Member States shall ensure that, by 30 April each year, the regulated entity surrenders a number of allowances covered by this Chapter, that is equal to the total emissions, corresponding to the quantity of fuels released for consumption pursuant to Annex III, during the preceding calendar year as verified in accordance with Articles 15 and 30f, and that those allowances are subsequently cancelled.

2. From 1 January **2026**, Member States shall ensure that, by 30 April each year, the regulated entity surrenders a number of allowances covered by this Chapter, that is equal to the total emissions, corresponding to the quantity of fuels released for consumption pursuant to Annex III, during the preceding calendar year as verified in accordance with Articles 15 and 30f, and that those allowances are subsequently cancelled.

Proposal for a directive

Article 1 – paragraph 1 – point 23

Directive 2003/87/EC

Article 30f – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that each regulated entity monitors for each calendar year as from 2025 the emissions corresponding to the quantities of fuels released for consumption pursuant to Annex III. They shall also ensure that each regulated entity reports these emissions to the competent authority in the following year, starting in 2026, in accordance with the acts referred to in Article 14(1).

2. Member States shall ensure that each regulated entity monitors for each calendar year as from **2024** the emissions corresponding to the quantities of fuels released for consumption pursuant to Annex III. They shall also ensure that each regulated entity reports these emissions to the competent authority in the following year, starting in **2025**, in accordance with the acts referred to in Article 14(1).

Part 3: alignments (recitals) with core provisions in part 1

Relevant recitals to be aligned with decision on core provisions (date of application, scope,):

- recitals 43-60
- recital 66

Compromise Amendment X RECITALS 1-7

EPP, S&D, RE, Greens, ID, ECR, The Left

Compromise amendment replacing Amendments 118121; 122-132; 134-137; 139-141; 142-146

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The Paris Agreement, adopted in December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) entered into force in November 2016 (“the Paris Agreement”)³⁶. Its Parties have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels.

Amendment

(1) The Paris Agreement, adopted in December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) entered into force in November 2016 (“the Paris Agreement”)³⁶. Its Parties have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. ***By adopting the Glasgow Climate Pact, the Parties to the Paris Agreement recognised that limiting the increase in the global average temperature to 1,5 °C above pre-industrial levels would significantly reduce the risks and impacts of climate change, and they committed to strengthening their 2030 targets by the end of 2022 to close the ambition gap, in line with the findings of the Intergovernmental Panel on Climate Change (IPCC). This should be done in a manner that is equitable and respects the principle of common but differentiated responsibilities and respective capabilities, in the light of different national***

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circumstances. The revision of the European Union Emissions Trading System (EU ETS), including of its market stability reserve, is a unique opportunity to contribute to stepping up the Union's climate action before the 27th session of the Conference of the Parties (COP 27) to the UNFCCC in Egypt.

³⁶ Paris Agreement (OJ L 282, 19.10.2016, p. 4).

³⁶ Paris Agreement (OJ L 282, 19.10.2016, p. 4).

Kommentiert [LC1]: Copy-paste from recital 1 MSR Decision adopted by EP on 5/04 (EPP, S&D, RE, Greens, LEFT). Covers AM 118 Greens, 119 LEFT, 120 LEFT

Or. en

**Proposal for a decision
Recital 1 a (new)**

Text proposed by the Commission

Amendment

***(1a)** The urgency of the need to keep the Paris Agreement goal of 1,5 °C alive has become more significant following the findings of the IPCC in its report of 7 August 2021 entitled 'Climate Change 2021: The Physical Science Basis'. The IPCC found that global temperature will reach or exceed the 1,5 °C mark earlier than previously anticipated, namely within the next 20 years. It also found that unless there are immediate and ambitious reductions in greenhouse gas emissions, it will no longer be possible to limit global warming to close to 1,5 °C or even 2 °C. In addition, in its report of 28 February 2022 entitled 'Climate Change 2022: Impacts, Adaptation and Vulnerability', the IPCC stated, with very high confidence, that climate change is a threat to human well-being and planetary health. Any further delay in concerted anticipatory global action on adaptation and mitigation will miss a brief and rapidly closing window of opportunity to secure a liveable and sustainable future for all.*

Kommentiert [LC2]: Copy-paste of EP position on MSR (05/04). Covering AM 119

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**Proposal for a decision
Recital 1 b (new)**

Text proposed by the Commission

Amendment

(1c) *The need for urgent action is further intensified by the increase in the frequency and intensity of extreme weather conditions as a direct result of climate change. According to the United Nations Office for Disaster Risk Reduction, the number of disasters recorded worldwide and the scale of global economic losses have nearly doubled in the last 20 years, much of which increase corresponds to the significant rise in the number of climate-related disasters.*

Kommentiert [LC3]: Copy-paste of EP position on MSR (05/04). Covering AM 123 LEFT

**Proposal for a decision
Recital 1 c (new)**

Text proposed by the Commission

Amendment

(1d) *The Union should therefore address this urgency by stepping up its efforts and establishing itself as an international leader in the fight against climate change while reflecting the principles of equity and of common but differentiated responsibilities and respective capabilities, as laid down in Article 2(2) of the Paris Agreement.*

Kommentiert [LC4]: Copy-paste of EP position on MSR (05/04). Covering AM 124 LEFT

**Proposal for a directive
Recital 2**

Text proposed by the Commission

Amendment

(2) Tackling climate and environmental-related challenges and

(2) Tackling climate and environmental-related challenges and

Kommentiert [LC5]: Copy-paste of EP position on MSR Decision (05/04). Covering AM 125 Greens and 126 LEFT.

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reaching the objectives of the Paris Agreement are at the core of the Communication on “The European Green Deal”, adopted by the Commission on 11 December 2019³⁷.

³⁷ COM(2019)640 final.

reaching the objectives of the Paris Agreement are **therefore** at the core of the Communication on “The European Green Deal”, adopted by the Commission on 11 December 2019³⁷.

³⁷ COM(2019)640 final.

Or. en

Proposal for a directive Recital 3

Text proposed by the Commission

(3) The European Green Deal **combines a comprehensive set of mutually reinforcing measures and initiatives aimed at achieving climate neutrality in the EU by 2050**, and sets out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, **where economic growth is decoupled from resource use**. It also aims to protect, conserve and enhance the Union's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. At the same time, this transition affects **women and men** differently and has a particular impact on some disadvantaged groups, such as older people, persons with disabilities and persons with a minority racial or ethnic background. It must therefore be ensured that the transition is just and inclusive, leaving no one behind.

Amendment

(3) The European Green Deal provides **the starting point for the achievement of the Union's climate-neutrality objective by 2050, at the latest, and the aim to achieve negative emissions thereafter, as laid down in Article 2(1) of Regulation (EU) 2021/1119 of the European Parliament and of the Council**. It sets out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, **while leaving no one behind in a just transition** that also addresses energy poverty. It also aims to protect, conserve and enhance the Union's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. This transition affects **workers from various sectors and each gender** differently and has a particular impact on some disadvantaged and vulnerable groups, such as older people, persons with disabilities, persons with **a minority racial or ethnic background and low and lower-middle income individuals and households**. **It also imposes greater challenges on certain regions, in particular structurally disadvantaged and peripheral regions, as**

Kommentiert [LC6]: Copy-paste of EP position on MSR Decision (05/04). Covering AM 127-132.

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well as islands. It must therefore be ensured that the transition is just and inclusive

Or. en

**Proposal for a directive
Recital 4**

Text proposed by the Commission

(4) The necessity and value of the European Green Deal have only grown in light of the very severe effects of the COVID-19 pandemic on the health, living and working conditions and well-being of the Union's citizens, which have shown that our society and our economy need to improve their resilience to external shocks and act early to prevent or mitigate them. European citizens continue to express strong views that this applies in particular to climate change³⁸.

Amendment

(4) The necessity and value of ***a well-implemented*** European Green Deal have only grown in light of the very severe effects of the COVID-19 pandemic on the health, living and working conditions and well-being of the Union's citizens, which have shown that our society and our economy need to improve their resilience to external shocks and act early to prevent or mitigate them ***in a manner that is just and results in no one being left behind, including those at risk of energy poverty.*** European citizens continue to express strong views that this applies in particular to climate change³⁸.

**Proposal for a directive
Recital 4 a (new)**

Text proposed by the Commission

Amendment

(4a) Delivering on the European Green Deal should ensure quality job creation and social progress for all. To be socially acceptable, the climate ambition proposed in this Directive should be matched by an equivalent social ambition, in line with the European Pillar of Social Rights. The European Green Deal agenda should be an opportunity to maintain and create quality jobs, promote decent work, raise labour standards, strengthen social dialogue and collective bargaining, tackle discriminations at work and promote

Kommentiert [LC7]: S&D 136

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gender equality. In order to achieve these objectives, just transition mechanisms should complement all proposed actions in the framework of the Green Deal and the “Fit for 55” package.

Or. en

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) The Union committed to reduce to reduce the Union’s economy-wide net greenhouse gas emissions by at least 55 % by 2030 below 1990 levels in the updated nationally determined contribution submitted to the UNFCCC Secretariat on 17 December 2020³⁹.

Amendment

(5) The Union committed to reduce to reduce the Union’s economy-wide net greenhouse gas emissions by at least 55 % by 2030 below 1990 levels in the updated nationally determined contribution submitted to the UNFCCC Secretariat on 17 December 2020³⁹.

³⁹

https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/European%20Union%20First/EU_NDC_Submission_December%202020.pdf

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) In Regulation (EU) 2021/1119 of the European Parliament and of the Council⁴⁰ the Union has enshrined the target of economy-wide climate neutrality by 2050 in legislation. That Regulation also establishes a binding Union domestic reduction commitment of net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % below 1990 levels by 2030.

Amendment

(6) In Regulation (EU) 2021/1119 of the European Parliament and of the Council⁴⁰ the Union has enshrined the target of economy-wide climate neutrality by 2050 **at the latest and the aim to achieve negative emissions thereafter** in legislation. That Regulation also establishes a binding Union domestic reduction commitment of net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % below 1990

Kommentiert [LC8]: EP position MSR decision (5/04).
Covering AM 139-140.

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levels by 2030.

⁴⁰ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

⁴⁰ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

Or. en

Proposal for a directive Recital 7

Text proposed by the Commission

(7) All sectors of the economy need to contribute to achieving those emission reductions. Therefore, the ambition of the EU Emissions Trading System (EU ETS), established by Directive 2003/87/EC of the European Parliament and of the Council⁴¹ to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner, should be increased in a manner commensurate with this economy-wide net greenhouse gas emissions reduction target for 2030.

⁴¹ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

Amendment

(7) All sectors of the economy need to contribute to achieving those emission reductions. Therefore, the ambition of the EU Emissions Trading System (EU ETS), established by Directive 2003/87/EC of the European Parliament and of the Council⁴¹ to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner, should be increased in a manner commensurate with this economy-wide net greenhouse gas emissions reduction target for 2030, ***the Union's climate-neutrality objective to be achieved by 2050, at the latest, and the aim to achieve negative emissions thereafter, as laid down in Article 2(1) of Regulation (EU) 2021/1119.***

⁴¹ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

Kommentiert [LC9]: EP position on MSR decision (05/04).
Covering AM 142-146.

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