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Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments - Preparation for the trilogue

Delegations will find in Annex to this note the 4-column table sent to the European Parliament with a view to the first trilogue on 4 April 2017 on the above-mentioned proposal.

**Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments**

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Amendment 1			
Recital 1			
<p>(1) Directive 2003/87/EC of the European Parliament and of the Council¹ established a system for greenhouse gas emission allowance trading within the Union in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner.</p>	<p>(1) Directive 2003/87/EC of the European Parliament and of the Council¹ established a system for greenhouse gas emission allowance trading within the Union in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner <i>as well as the sustainable strengthening of Union industry against the risk of carbon and investment leakage.</i></p>		
<p>¹ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).</p>	<p>¹ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Amendment 2 Recital 2			
<p>(2) The European Council of October 2014 made a commitment to reduce the overall greenhouse gas emissions of the Union by at least 40% below 1990 levels by 2030. All sectors of the economy should contribute to achieving these emission reductions and the target will be delivered in the most cost-effective manner through the Union emission trading system (EU ETS) delivering a reduction of 43% below 2005 levels by 2030. This was confirmed in the intended nationally determined reduction commitment of the Union and its Member States submitted to the Secretariat of the UN Framework Convention on Climate Change on 6 March 2015².</p> <p>²http://www4.unfccc.int/submission/s/indc/Submission%20Pages/submissions.aspx</p>	<p>(2) The European Council of October 2014 made a commitment to reduce the overall greenhouse gas emissions of the Union by at least 40% below 1990 levels by 2030. All sectors of the economy should contribute to achieving <i>those</i> emission reductions and the target <i>is to</i> be delivered in the most cost-effective manner through the Union emission trading system (EU ETS) delivering a reduction of 43% below 2005 levels by 2030. This was confirmed in the intended nationally determined reduction commitment of the Union and its Member States submitted to the Secretariat of the <i>United Nations</i> Framework Convention on Climate Change (UNFCCC) on 6 March 2015. <i>The effort of emission reductions should be fairly shared between the sectors covered by the EU ETS.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>Amendment 3 Recital 2 a (new)</p> <p><i>(2a) In order to honour the agreed commitment that all sectors of the economy contribute to the fulfilment of the target of reducing the overall greenhouse gas emissions of the Union by at least 40% below 1990 levels by 2030, it is important that the EU ETS, despite being the Union's primary tool to achieve its long-term climate and energy targets, is complemented by equivalent additional actions taken in other legal acts and instruments dealing with greenhouse gas emissions from sectors not covered by the EU ETS.</i></p>	<p><u>(2a) The Paris Agreement was adopted on 12 December 2015 and entered into force on 4 November 2016. 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. The Parties have also agreed to periodically take stock of the implementation of the Paris Agreement to assess the collective progress towards achieving the purpose of the Agreement and its long-term goals. The provisions of this Directive should be kept under review in the light of implementation of the Paris Agreement and the development of climate policy measures in other major economies.</u></p>	

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	<p style="text-align: center;">Amendment 4 Recital 2 b (new)</p> <p><i>(2b) Under the Agreement adopted in Paris at the 21st Conference of the Parties of the UNFCCC of 12 December 2015 (the ‘Paris Agreement’), countries are required to put policies in place to achieve more than 180 Intended Nationally Determined Contributions (INDCs) that cover some 98% of global greenhouse gas emissions. The Paris Agreement is aimed at limiting the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. Many of those policies are expected to involve carbon pricing or similar measures, and therefore a revision clause should be laid down in this Directive to allow the Commission, where appropriate, to propose stricter emissions reductions after the first stocktaking exercise under the Paris Agreement in 2023, an adjustment to the</i></p>		

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	<p><i>provisions for transitional carbon leakage to reflect the development of carbon pricing mechanisms outside the Union, and additional policy measures and tools to enhance the greenhouse gas reduction commitments of the Union and its Member States. The revision clause should also ensure that a communication is adopted within six months of the facilitative dialogue under the UNFCCC in 2018 assessing the consistency of the Union's climate change legislation with the Paris Agreement goals.</i></p>		
Amendment 5			
Recital 2 c (new)			
	<p><i>(2c) In accordance with the Paris Agreement and in line with the commitment of the co-legislators expressed in Directive 2009/29/EC of the Council^{1a} and Decision No 406/2009/EC of the European Parliament and of the Council^{1b}, all sectors of the economy are required to contribute to the reduction of carbon dioxide (CO₂)</i></p>		

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	<p><i>emissions. To this end, efforts to limit international maritime emissions through the International Maritime Organisation (IMO) are under way and should be encouraged, with the aim of establishing a clear IMO action plan for climate policy measures to reduce CO2 emissions from shipping at a global level. The adoption of clear targets to reduce international maritime emissions through the IMO has become a matter of great urgency and a prerequisite for the Union to refrain from acting further on the inclusion of the maritime sector within the EU ETS. If, however, any such agreement is not reached by the end of 2021, the sector should be included under the EU ETS and a fund should be established for ship operators' contributions and collective compliance relating to CO2 emissions already covered by the Union system for monitoring, reporting and verification (MRV system) laid down in Regulation (EU) 2015/757 of the European</i></p>		

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	<p>Parliament and of the Council^c <i>(emissions released in Union ports and during voyages to and from such ports). A share of revenues from the auction of allowances to the maritime sector should be used to improve energy efficiency and support investments in innovative technologies for the reduction of CO2 emissions in the maritime sector, including short sea shipping and ports.</i></p> <p>^{1a} Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (OJ L 140, 5.6.2009, p.63).</p> <p>^{1b} Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction</p>		

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	<p><i>commitments up to 2020 (OJ L 140, 5.6.2009, p. 136).</i></p> <p><i>^{1c} 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).</i></p>		
Amendment 143			
Recital 3			
<p>(3) The European Council confirmed that a well-functioning, reformed EU ETS with an instrument to stabilise the market will be the main European instrument to achieve this target, with an annual reduction factor of 2.2% from 2021 onwards, free allocation not expiring but measures continuing after 2020 to prevent the risk of carbon leakage due to climate policy, as long as no comparable efforts are undertaken in other major economies, without reducing the share of allowances to be auctioned. The auction share</p>	<p>(3) A well-functioning, reformed EU ETS with an <i>enhanced</i> instrument to stabilise the market will be the main European <i>instruments</i> to achieve this target, with an annual reduction factor of 2,2% from 2021 onwards, free allocation not expiring but measures continuing after 2020 to prevent the risk of carbon leakage due to climate policy, as long as no comparable efforts are undertaken in other major economies. The auction share should be expressed as a percentage figure in the legislation, <i>which should decline</i></p>		

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<p>should be expressed as a percentage figure in the legislation, to enhance planning certainty as regards investment decisions, to increase transparency and to render the overall system simpler and more easily understandable.</p>	<p><i>on application of a cross-sectoral correction factor</i> to enhance planning certainty as regards investment decisions, to increase transparency, to render the overall system simpler and more easily understandable, and to protect those sectors most at risk of carbon leakage from a cross-sectoral correction factor. Those provisions should be kept under review in line with the Paris Agreement and adjusted accordingly if necessary to fulfil the Union's climate obligations pursuant to that agreement.</p>		
<p>Amendment 7 Recital 3 a (new)</p>			
	<p><i>(3a) Least Developed Countries (LDCs) are particularly vulnerable to the effects of climate change and are responsible only for very low levels of greenhouse gas emissions. Therefore, particular priority should be given to addressing the needs of LDCs through the use of EU ETS allowances to finance climate action, in particular adaptation to</i></p>		

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	<i>the impacts of climate change through the UNFCCC Green Climate Fund.</i>		
Amendment 8 Recital 4			
<p>(4) It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving this requires continuation of ambitious climate action with the EU ETS as the cornerstone of Europe's climate policy, and progress on the other aspects of Energy Union³. Implementing the ambition decided in the 2030 framework contributes to delivering a meaningful carbon price and continuing to stimulate cost-efficient greenhouse gas emission reductions.</p>	<p>(4) It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens and industries. Achieving this requires continuation of ambitious climate action with the EU ETS as the cornerstone of Union's climate policy, and progress on the other aspects of Energy Union³. The interaction of the EU ETS with other Union and national climate and energy policies that have an impact on the demand for EU ETS allowances needs to be taken into account. Implementing the ambition decided in the 2030 framework and adequately addressing the progress on other aspects of the Energy Union contributes to delivering a meaningful carbon price and to</p>	<p>(4) It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving this requires continuation of ambitious climate action with the EU ETS as the cornerstone of Europe's climate policy, and progress on the other aspects of Energy Union³. Implementing the ambition decided in the 2030 framework contributes to delivering a meaningful carbon price and continuing to stimulate cost-efficient greenhouse gas emission reductions.</p>	

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<p>_____</p> <p>³ COM(2015)80, establishing a Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy</p>	<p>continuing to stimulate cost-efficient greenhouse gas emission reductions.</p> <p>_____</p> <p>³ COM(2015)80, establishing a Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy</p>	<p>_____</p> <p>³ 6594/15 - COM(2015)80, establishing a Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy</p>	
<p>Amendment 9 Recital 4 a (new)</p>			
	<p><i>(4a) Increased ambition in energy efficiency compared to the 27% target adopted by the Council should lead to more free allowances for industry at risk of carbon leakage.</i></p>		

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Amendment 10 Recital 5			
<p>(5) Article 191(2) of the Treaty on the Functioning of the European Union requires that Union policy is based on the principle that the polluter should pay and, on this basis, Directive 2003/87/EC provides for a transition to full auctioning over time. Avoiding carbon leakage is a justification to postpone full transition, and targeted free allocation of allowances to industry is justified in order to address genuine risks of increases in greenhouse gas emissions in third countries where industry is not subject to comparable carbon constraints as long as comparable climate policy measures are not undertaken by other major economies.</p>	<p>(5) Article 191(2) of the Treaty on the Functioning of the European Union requires that Union policy is based on the principle that the polluter should pay and, on this basis, Directive 2003/87/EC provides for a transition to full auctioning over time. Avoiding carbon leakage is a justification to temporarily postpone full actioning, and targeted free allocation of allowances to industry is a justified exception to the principle that the polluter should pay, provided that no over-allocation occurs, in order to address genuine risks of increases in greenhouse gas emissions in third countries where industry is not subject to comparable carbon constraints as long as comparable climate policy measures are not undertaken by other major economies. To that end, allocation of free allowances should be more dynamic in accordance with thresholds provided for in this Directive.</p>	<p>(5) Article 191(2) of the Treaty on the Functioning of the European Union requires that Union policy <u>be</u> based on the principle that the polluter should pay and, on this basis, Directive 2003/87/EC provides for a transition to full auctioning over time. Avoiding carbon leakage is a justification to postpone full transition, and targeted free allocation of allowances to industry is justified in order to address genuine risks of increases in greenhouse gas emissions in third countries where industry is not subject to comparable carbon constraints as long as comparable climate policy measures are not undertaken by other major economies.</p>	

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Amendment 11 Recital 6			
<p>(6) The auctioning of allowances remains the general rule, with free allocation as the exception. Consequently, and as confirmed by the European Council, the share of allowances to be auctioned, which was 57% over the period 2013-2020, should not be reduced. The Commission's Impact Assessment⁴ provides details on the auction share and specifies that this 57% share is made up of allowances auctioned on behalf of Member States, including allowances set aside for new entrants but not allocated, allowances for modernising electricity generation in some Member States and allowances which are to be auctioned at a later point in time because of their placement in the Market Stability Reserve established by Decision (EU) 2015/... of the European Parliament and of the Council⁵.</p>	<p>(6) The auctioning of allowances remains the general rule, with free allocation as the exception. Consequently, the share of allowances to be auctioned, which <i>should be</i> 57% over the period <i>2021-2030</i>, should be reduced <i>on application of the cross sectoral correction factor to protect those sectors most exposed to the risk of carbon leakage</i>. The Commission's Impact Assessment provides details on the auction share and specifies that this 57% share is made up of allowances auctioned on behalf of Member States, including allowances set aside for new entrants but not allocated, allowances for modernising electricity generation in some Member States, and allowances which are to be auctioned at a later point in time because of their placement in the Market Stability Reserve established by <i>Decision (EU) 2015/1814</i> of the European</p>	<p>(6) The auctioning of allowances remains the general rule, with free allocation as the exception. [...] The Commission's Impact Assessment⁴ specifies that the share of allowances to be auctioned was 57% over the period 2013-2020. In principle, the share should remain 57%. It is made up of allowances auctioned on behalf of Member States, including allowances set aside for new entrants but not allocated, allowances for modernising electricity generation in some Member States and allowances which are to be auctioned at a later point in time because of their placement in the Market Stability Reserve established by Decision (EU) 2015/1814 of the European Parliament and of the Council⁵. Allowances used to support innovation are not included in this share. In case the demand for free allowances triggers the need to apply a uniform cross-sectoral correction factor before 2030, the</p>	

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<p>4 SEC(2015)XX</p> <p>5 Decision (EU) 2015/... of the European Parliament and of the Council of ... concerning the establishment and operation of a market stability reserve for the</p>	<p>Parliament and of the Council⁵. <i>A just Transition Fund should be established to support regions with a high share of workers in carbon-dependent sectors and a GDP per capita well below the Union average.</i></p> <p>5 Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission</p>	<p><u>share of allowances to be auctioned over the ten year period beginning on 1 January 2021 should be reduced by up to 2% of the total quantity. For the purposes of solidarity, growth and interconnections, 10% of the EU ETS allowances to be auctioned by the Member States should be distributed among those countries whose GDP per capita did not exceed 90% of the EU average (in 2013), and the rest of the allowances should be distributed among all Member States on the basis of verified emissions. The derogation from contributions to this distribution in 2013-2020 for certain Member States with an average level of income per capita more than 20% higher than the average in the Union should expire.</u></p> <p>4 <u>11065/15 ADD2 - SWD (2015) 135 final,</u></p> <p>5 Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and</p>	

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<p>Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L [...], p. [...]).</p>	<p>trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, p. 1).</p>	<p>operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, p.1).</p>	
<p>Amendment 12 Recital 7</p>			
<p>(7) To preserve the environmental benefit of emission reductions in the Union while actions by other countries do not provide comparable incentives to industry to reduce emissions, free allocation should continue to installations in sectors and sub-sectors at genuine risk of carbon leakage. Experience gathered during the operation of the EU ETS confirmed that sectors and sub-sectors are at risk of carbon leakage to varying degrees, and that free allocation has prevented carbon leakage. While some sectors and sub-sectors can be deemed at a higher risk of carbon leakage, others are able to pass on a considerable share of the costs of allowances to cover their emissions in product prices without losing market share and only bear the</p>	<p>(7) To preserve the environmental benefit of emission reductions in the Union while actions by other countries do not provide comparable incentives to industry to reduce emissions, free allocation should <i>temporarily</i> continue to installations in sectors and sub-sectors at genuine risk of carbon leakage. Experience gathered during the operation of the EU ETS confirmed that sectors and sub-sectors are at risk of carbon leakage to varying degrees, and that free allocation has prevented carbon leakage. While some sectors and sub-sectors can be deemed at a higher risk of carbon leakage, others are able to pass on a considerable share of the costs of allowances to cover their emissions in product prices without losing</p>	<p>(7) To preserve the environmental benefit of emission reductions in the Union while actions by other countries do not provide comparable incentives to industry to reduce emissions, free allocation should continue to installations in sectors and sub-sectors at genuine risk of carbon leakage. Experience gathered during the operation of the EU ETS confirmed that sectors and sub-sectors are at risk of carbon leakage to varying degrees, and that free allocation has prevented carbon leakage. While some sectors and sub-sectors can be deemed to have a higher risk of carbon leakage, others are able to pass on a considerable share of the costs of allowances to cover their emissions in product prices without losing market share and only bear the</p>	

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<p>remaining part of the costs so that they are at a low risk of carbon leakage. The Commission should determine and differentiate the relevant sectors based on their trade intensity and their emissions intensity to better identify sectors at a genuine risk of carbon leakage. Where, based on these criteria, a threshold determined by taking into account the respective possibility for sectors and sub-sectors concerned to pass on costs in product prices is exceeded, the sector or sub-sector should be deemed at risk of carbon leakage. Others should be considered at a low risk or at no risk of carbon leakage. Taking into account the possibilities for sectors and sub-sectors outside of electricity generation to pass on costs in product prices should also reduce windfall profits.</p>	<p>market share and only bear the remaining part of the costs so that they are at a low risk of carbon leakage. The Commission should determine and differentiate the relevant sectors based on their trade intensity and their emissions intensity to better identify sectors at a genuine risk of carbon leakage. Where, based on these criteria, a threshold determined by taking into account the respective possibility for sectors and sub-sectors concerned to pass on costs in product prices is exceeded, the sector or sub-sector should be deemed at risk of carbon leakage. Others should be considered at a low risk or at no risk of carbon leakage. Taking into account the possibilities for sectors and sub-sectors outside of electricity generation to pass on costs in product prices should also reduce windfall profits. <i>The risk of carbon leakage in sectors and subsectors for which free allocation is calculated on the basis of the benchmark values for aromatics, hydrogen and syngas should also</i></p>	<p>remaining part of the costs so that they are at a low risk of carbon leakage. The Commission should determine and differentiate the relevant sectors based on their trade intensity and their emissions intensity to better identify sectors at a genuine risk of carbon leakage. <u>While the assessment of sectors and subsectors should take place at a 4-digit level (NACE-4 code), specific circumstances should also be foreseen where it may be appropriate to have the possibility to request an assessment at a 6-digit or an 8-digit level (Prodcom). Such possibility should exist where sectors and subsectors have previously been considered as exposed to carbon leakage at Prodcom level, also considering that certain NACE codes, in particular those ending with .99, regroup heterogeneous activities not elsewhere classified (n.e.c.).</u> <u>Where a sector or subsector is subject to the refineries benchmark and another product benchmark, this circumstance should be taken into account.</u> <u>Where, based on these</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<i>be assessed considering that these products are produced both in chemical plants and refineries.</i>	criteria, a threshold determined by taking into account the respective possibility for sectors and sub-sectors concerned to pass on costs in product prices is exceeded, the sector or sub-sector should be deemed at risk of carbon leakage. Other sectors should be considered to have a low risk or at no risk of carbon leakage. Taking into account the possibilities for sectors and sub-sectors outside of electricity generation to pass on costs in product prices should also reduce windfall profits.	
Amendment 13 Recital 8			
(8) In order to reflect technological progress in the sectors concerned and adjust them to the relevant period of allocation, provision should be made for the values of the benchmarks for free allocations to installations, determined on the basis of data from the years 2007-8, to be updated in line with observed average improvement. For reasons of predictability, this should be done through applying a factor that	(8) In order to reflect technological progress in the sectors concerned and adjust them to the relevant period of allocation, provisions should be made for the values of the benchmarks for free allocations to installations, determined on the basis of data from the years 2007 and 2008 , to be updated in line with observed average improvement. For reasons of predictability, this should be done	(8) The benchmark values for free allocation applicable from 2013 onwards should be reviewed in order to avoid windfall profits and reflect technological progress in the sectors concerned in the period between 2007-2008 and each later period for which free allocations are determined in accordance with Article 11(1). In order to reflect technological progress in the sectors concerned and adjust them	

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<p>represents the best assessment of progress across sectors, which should then take into account robust, objective and verified data from installations so that sectors whose rate of improvement differs considerably from this factor have a benchmark value closer to their actual rate of improvement. Where the data shows a difference from factor reduction of more than 0.5% of the 2007-8 value higher or lower per year over the relevant period, the related benchmark value shall be adjusted by that percentage. To ensure a level playing field for the production of aromatics, hydrogen and syngas in refineries and chemical plants, the benchmark values for aromatics, hydrogen and syngas should continue to be aligned to the refineries benchmarks.</p>	<p>through applying a factor that represents the <i>actual</i> assessment of progress by the 10% most efficient installations in sectors, which should then take into account robust, objective and verified data from installations so that sectors whose rate of improvement differs considerably from this factor have a benchmark value closer to their actual rate of improvement. Where the data shows a difference from factor reduction of more than 1,75% of the value corresponding to the years of 2007 and 2008 (<i>either</i> higher or lower) per year over the relevant period, the related benchmark value should be adjusted by that percentage. Where, however, the data shows an improvement rate of either 0,25 or less over the relevant period, the related benchmark value should be adjusted by that percentage. To ensure a level playing field for the production of aromatics, hydrogen and syngas in refineries and chemical plants, the benchmark values for aromatics, hydrogen and syngas should continue to be</p>	<p>to the relevant period of allocation, provision should be made for the values of the benchmarks for free allocations to installations, determined on the basis of data from the years 2007-2008, to be updated in line with observed [...] improvement. For reasons of predictability, this should be done through applying a factor that represents the best assessment of progress across sectors, which should then take into account robust, objective and verified data from installations, considering the performance of the 10% most efficient installations, so that [...] benchmark values <u>reflect the actual rate of improvement</u>. Where the data shows an <u>annual reduction of less than 0,2% or more than 1,5% of the 2007-2008 value [...]</u> over the relevant period, the related benchmark value <u>should</u> be adjusted with rates other than the <u>actual rates of improvement to preserve emission reduction incentives and properly reward innovation</u>. <u>For the period 2021-2025, these benchmark values</u></p>	

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	aligned to the refineries benchmarks.	<p>would be adjusted in respect of each year between 2008 and the middle of that period with either 0,2% or 1,5%, leading to an improvement of 3% or 2,5% respectively compared to the value applicable in the period 2013-2020. For the period 2026-2030, they would be adjusted in the same way, leading to an improvement of 4% or 30% respectively compared to the value applicable in the period 2013-2020. To ensure a level playing field for the production of aromatics, hydrogen and syngas in refineries and chemical plants, the benchmark values for aromatics, hydrogen and syngas should continue to be aligned to the refineries benchmarks.</p>	
Recital 8 a (new)			
		<p>(8a) <u>The level of free allocation for installations should be better aligned with their actual production levels. To this end, allocations should be periodically adjusted in a symmetrical manner to take account of relevant increases and decreases in production. Data used</u></p>	

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		<p><u>in this context should be complete, consistent, independently verified and should present the same high level of accuracy and quality as the data used to determine the free allocation. In order to avoid undue administrative burden, considering the deadline that applies to the notification of changes in production, and bearing in mind the need to ensure that the changes to the allocations are carried out in an effective, non-discriminatory and uniform manner, the Commission may consider further measures to be put in place, such as the use of a rolling average or absolute thresholds regarding the changes to allocations, or with respect to the deadline that applies to the notification of changes in production.</u></p>	

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Amendment 14 Recital 9			
<p>(9) Member States should partially compensate, in accordance with state aid rules, certain installations in sectors or sub-sectors which have been determined to be exposed to a significant risk of carbon leakage because of costs related to greenhouse gas emissions passed on in electricity prices. The Protocol and accompanying decisions adopted by the Conference of the Parties in Paris need to provide for the dynamic mobilisation of climate finance, technology transfer and capacity building for eligible Parties, particularly those with least capabilities. Public sector climate finance will continue to play an important role in mobilising resources after 2020. Therefore, auction revenues should also be used for climate financing in vulnerable third countries, including adaptation to the impacts of climate <i>change</i>. The amount of climate finance to be mobilised will also depend on the ambition and quality of the proposed <i>INDCs</i>, subsequent investment plans and national adaptation planning processes. Member States should also <i>address the social aspects of decarbonising</i></p>	<p>(9) <i>In pursuing the goal of a level playing field</i>, Member States should partially compensate, <i>through a centralised system at Union level</i>, certain installations in sectors or sub-sectors which have been determined to be exposed to a significant risk of carbon leakage because of costs related to greenhouse gas emissions passed on in electricity prices. Public sector climate finance will continue to play an important role in mobilising resources after 2020. Therefore, auction revenues should also be used for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate <i>change</i>. The amount of climate finance to be mobilised will also depend on the ambition and quality of the proposed <i>INDCs</i>, subsequent investment plans and national adaptation planning processes. Member States should also <i>address the social aspects of decarbonising</i></p>	<p>(9) It would be desirable that Member States [...] partially compensate, in accordance with state aid rules, certain installations in sectors or sub-sectors which have been determined to be exposed to a significant risk of carbon leakage because of costs related to greenhouse gas emissions passed on in electricity prices. <u>By seeking to use no more than 25% of the revenues generated from auctioning for indirect cost compensation, Member States are likely both to facilitate the achievement of the objectives of the EU ETS and to preserve the integrity of the internal market and of conditions of competition. To enhance the transparency on the extent to which such compensation is provided, Member States should regularly report to the public on the measures they have in place and the beneficiaries ensuring, however, that the confidential nature of certain information and related data</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>depend on the ambition and quality of the proposed Intended Nationally Determined Contributions (INDCs), subsequent investment plans and national adaptation planning processes. Member States should also use auction revenues to promote skill formation and reallocation of labour affected by the transition of jobs in a decarbonising economy.</p>	<p><i>their economies and</i> use auction revenues to promote skill formation and reallocation of labour affected by the transition of jobs in a decarbonising economy. <i>It should be possible for Member States to add to the compensation received through the centralised system at Union level. Such financial measures should not exceed the levels referred to in the relevant state aid guidelines.</i></p>	<p><u>protection concerns are duly taken into account. Where a Member State uses a significant amount of its auction revenues for compensating indirect costs, there is an increased interest in making public the reasons for this choice. When reviewing the state aid guidelines on indirect compensation the Commission should consider inter alia the usefulness of upper limits on the compensation granted by Member States. [...] The review of the Directive should consider the extent to which those financial measures have been effective in avoiding significant risks of carbon leakage due to indirect costs. Public sector climate finance will continue to play an important role in mobilising resources after 2020. Therefore, auction revenues should also be used for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate. The amount of climate finance to be mobilised will also depend on the ambition and quality of the proposed</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		Intended Nationally Determined Contributions (INDCs), subsequent investment plans and national adaptation planning processes. Member States should also use auction revenues to promote skill formation and reallocation of labour affected by the transition of jobs in a decarbonising economy.	
Amendment 15 Recital 10			
<p>(10) The main long-term incentive from this Directive for the capture and storage of CO₂ (CCS), new renewable energy technologies and breakthrough innovation in low-carbon technologies and processes is the carbon price signal it creates and that allowances will be surrendered for CO₂ emissions which are permanently stored or avoided. In addition, to supplement the resources already being used to accelerate demonstration of commercial CCS facilities and innovative renewable energy technologies, EU ETS allowances should be used to provide guaranteed rewards for deployment</p>	<p>(10) The main long-term incentive from this Directive for <i>carbon capture and storage (CCS) and carbon capture and use (CCU)</i>, new renewable energy technologies and breakthrough innovation in low-carbon technologies and processes is the carbon price signal it creates and that allowances will not need to be surrendered for CO₂ emissions which are permanently stored or avoided. In addition, to supplement the resources already being used to accelerate demonstration of commercial CCS and innovative renewable energy technologies, EU ETS allowances should be used to</p>	<p>(10) The main long-term incentive from [...] Directive 2003/87/EC for the capture and storage of CO₂ (CCS), new renewable energy technologies and breakthrough innovation in low-carbon technologies and processes, including <u>environmentally safe carbon capture and utilisation (CCU)</u>, is the carbon price signal it creates and that allowances will not need to be surrendered for CO₂ emissions which are permanently stored or avoided. In addition, to supplement the resources already being used to accelerate demonstration of commercial CCS facilities and innovative renewable</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>of CCS facilities, new renewable energy technologies and industrial innovation in low-carbon technologies and processes in the Union for CO₂ stored or avoided on a sufficient scale, provided an agreement on knowledge sharing is in place. The majority of this support should be dependent on verified avoidance of greenhouse gas emissions, while some support may be given when pre-determined milestones are reached taking into account the technology deployed. The maximum percentage of project costs to be supported may vary by category of project.</p>	<p>provide guaranteed rewards for deployment of <i>CCS and CCU</i> facilities, new renewable energy technologies and industrial innovation in low-carbon technologies and processes in the Union for CO₂ stored or avoided on a sufficient scale, provided an agreement on knowledge sharing is in place. The majority of this support should be dependent on verified avoidance of greenhouse gas emissions, while some support may be given when pre-determined milestones are reached taking into account the technology deployed. The maximum percentage of project costs to be supported may vary by category of project.</p>	<p>energy technologies, EU ETS allowances should be used to provide guaranteed rewards for deployment of <u>CCS or CCU</u> facilities, new renewable energy technologies and industrial innovation in low-carbon technologies and processes in the Union for CO₂ stored or avoided on a sufficient scale, provided an agreement on knowledge sharing is in place. The majority of this support should be dependent on verified avoidance of greenhouse gas emissions, while some support may be given when pre-determined milestones are reached taking into account the technology deployed. The maximum percentage of project costs to be supported may vary by category of project.</p>	
Recital 10 a (new)			
		<p>(10a) <u>Greece had a GDP per capita below 60% of the Union average in 2014 but is not a beneficiary of the Modernisation Fund, and should therefore be able to claim allowances to co-finance decarbonisation of the electricity</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<p><u>supply of islands within its territory. These allowances should come from the maximum amount referred to in Article 10a(5) which were not allocated for free by 31 December 2020. These allowances should be auctioned in accordance with the modalities applicable to the Modernisation Fund.</u></p>	
<p>Amendment 16 Recital 11</p>			
<p>(11) A Modernisation Fund should be established from 2% of the total EU ETS allowances, and auctioned in accordance with the rules and modalities for auctions taking place on the Common Auction Platform set out in Regulation 1031/2010. Member States who in 2013 had a GDP per capita at market exchange rates below the Union average should be eligible for funding from the Modernisation Fund and derogate up to 2030 from the principle of full auctioning for electricity generation by using the option of free allocation in order to transparently promote real investments modernising their</p>	<p>(11) A Modernisation Fund should be established from 2% of the total EU ETS allowances, and auctioned in accordance with the rules and modalities for auctions taking place on the Common Auction Platform set out in Regulation (EU) No 1031/2010. Member States which in 2013 had a GDP per capita at market exchange rates below 60% of the Union average should be eligible for funding from the Modernisation Fund. Member States which in 2014 had a GDP per capita in EUR at market prices should be able, up to 2030, to derogate from the principle of full</p>	<p>(11) A Modernisation Fund should be established from 2% of the total EU ETS allowances, and auctioned in accordance with the rules and modalities for auctions taking place on the Common Auction Platform set out in Commission Regulation 1031/2010⁶. Member States who in 2013 had a GDP per capita at market exchange rates of below 60% below the Union average should be eligible for funding from the Modernisation Fund and <u>be able to derogate up to 2030 from the principle of full auctioning for electricity generation by using the option of free allocation in order to transparently promote real</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>energy sector while avoiding distortions of the internal energy market. The rules for governing the Modernisation Fund should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access by all participants. The function of the governance structure should be commensurate with the purpose of ensuring the appropriate use of the funds. That governance structure should be composed of an investment board and a management committee and due account should be taken of the expertise of the EIB in the decision-making process unless support is provided to small projects through loans from a national promotional banks or through grants via a national programme sharing the objectives of the Modernisation Fund. Investments financed from the fund should be proposed by the Member States. To ensure that the investment needs in low income</p>	<p>auctioning for electricity generation by using the option of free allocation in order to transparently promote real investments modernising and diversifying their energy sector, in line with the Union 2030 and 2050 climate and energy goals, while avoiding distortions of the internal energy market. The rules for governing the Modernisation Fund should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access by all participants. Such rules should be transparent, balanced and commensurate with the purpose of ensuring the appropriate use of the funds. That governance structure should be composed of an investment board, an advisory board and a management committee. Due account should be taken of the expertise of the EIB in the decision-making process unless support is provided to small projects through loans from national promotional banks or</p>	<p>investments modernising their energy sector while avoiding distortions of the internal energy market. Investments under the <u>Modernisation Fund aiming at improving energy efficiency could include investments in high efficiency cogeneration, [...] district heating and electrification of road transport. The rules for governing the Modernisation Fund should provide a coherent, comprehensive and transparent framework to ensure the most efficient implementation possible, taking into account the need for easy access by all participants. The function of the governance structure should be commensurate with the purpose of ensuring the appropriate use of the funds. That governance structure should include an investment committee [...] and due account should be taken of the expertise of the EIB in the decision-making process unless support is provided to small projects through loans from a national promotional bank or through grants via a national</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>Member States are adequately addressed, the distribution of funds will take into account in equal shares verified emissions and GDP criteria. The financial assistance from the Modernisation Fund could be provided through different forms.</p>	<p>through grants via a national programme sharing the objectives of the Modernisation Fund. Investments financed from the fund should be proposed by the Member States and all financing from the fund should comply with specific eligibility criteria. To ensure that the investment needs in low income Member States are adequately addressed, the distribution of funds will take into account in equal shares verified emissions and GDP criteria. The financial assistance from the Modernisation Fund could be provided through different forms.</p>	<p>programme sharing the objectives of the Modernisation Fund. [...] To ensure that the investment needs in low income Member States are adequately addressed, the funds for the Modernisation Fund should be distributed amongst the Member States based on a combination of a 50% share of verified emissions and a 50% share of GDP criteria. The financial assistance from the Modernisation Fund could be provided through different forms.</p> <p>_____</p> <p>⁶ <u>Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (OJ L 302, 18.11.2010, p. 1).</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Amendment 17 Recital 12			
<p>(12) The European Council confirmed that the modalities, including transparency, of the optional free allocation to modernise the energy sector in certain Member States should be improved. Investments with a value of €10 million or more should be selected by the Member State concerned through a competitive bidding process on the basis of clear and transparent rules to ensure that free allocation is used to promote real investments modernising the energy sector in line with the Energy Union objectives. Investments with a value of less than €10 million should also be eligible for funding from the free allocation. The Member State concerned should select such investments based on clear and transparent criteria. The results of this selection process should be subject to public consultation. The public should be duly kept informed at the stage of the selection of investment projects</p>	<p>(12) The European Council confirmed that the modalities, including transparency, of the optional free allocation to modernise <i>and diversify</i> the energy sector in certain Member States should be improved. Investments with a value of EUR 10 million or more should be selected by the Member State concerned through a competitive bidding process on the basis of clear and transparent rules to ensure that free allocation is used to promote real investments modernising <i>or diversifying</i> the energy sector in line with the Energy Union objectives, <i>including that of promoting the Third Energy Package</i>. Investments with a value of less than EUR 10 million should also be eligible for funding from the free allocation. The Member State concerned should select such investments based on clear and transparent criteria. The selection process should be subject to public consultation <i>and the results of</i></p>	<p>(12) The <u>October 2014</u> European Council confirmed that the modalities, including transparency, of the optional free allocation to modernise the energy sector in certain Member States should be improved. Investments with a value of <u>€15</u> million or more should be selected by the Member State concerned through a competitive bidding process on the basis of clear and transparent rules to ensure that free allocation is used to promote real investments modernising the energy sector in line with the Energy Union objectives. Investments with a value of less than <u>€15</u> million should also be eligible for funding from the free allocation. The Member State concerned should select such investments based on clear and transparent criteria. The results of this selection process should be subject to public consultation. The public should be duly kept informed at the stage of the selection of investment projects</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
as well as of their implementation.	<p><i>such selection process, including rejected projects, should be made publically available.</i> The public should be duly kept informed at the stage of the selection of investment projects as well as of their implementation. <i>Member States should have the possibility of transferring part of or all the corresponding allowances to the Modernisation Fund if they are eligible to use both instruments. The derogation should be terminated by the end of the trading period in 2030.</i></p>	as well as of their implementation.	
Amendment 18 Recital 13			
(13) EU ETS funding should be coherent with other Union funding programmes, including European Structural and Investment Funds, so as to ensure the effectiveness of public spending.	(13) EU ETS funding should be coherent with other Union funding programmes, including Horizon 2020, the European Fund for Strategic Investments , European Structural and Investment Funds, and the European Investment Bank (EIB) Climate Investment Strategy , so as to ensure the effectiveness of public spending.	(13) EU ETS funding should be coherent with the objectives of the <u>Union's 2030 climate and energy policy framework and the long-term objectives expressed in the Paris Agreement, as well as other Union funding programmes</u> , so as to ensure the effectiveness of public spending.	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Amendment 19 Recital 14			
<p>(14) The existing provisions which are in place for small installations to be excluded from the EU ETS allow the installations which are excluded to remain so, and it should be made possible for Member States to update their list of excluded installations and for Member States currently not making use of this option to do so at the beginning of each trading period.</p>	<p>(14) The existing provisions which are in place for small installations to be excluded from the EU ETS <i>should be extended to cover installations operated by small to medium enterprises (SMEs) emitting less than 50 000 tonnes of CO2 equivalent in each of the three years preceding the year of the application for exclusion.</i> It should be made possible for Member States to update their list of excluded installations and for Member States currently not making use of this option to do so at the beginning of each trading period <i>and halfway through the period. It should also be possible for installations emitting less than 5 000 tonnes of CO2 equivalent in each of the three years preceding the beginning of each trading period to be excluded from the EU ETS, subject to revision every five years. Member States should ensure that alternative equivalent measures for installations that have opted out do not result in</i></p>	<p>(14) The existing provisions which are in place for small installations to be excluded from the EU ETS allow the installations which are excluded to remain so, and it should be made possible for Member States to update their list of excluded installations and for Member States currently not making use of this option to do so at the beginning of each trading period. <u>The possibility to include additional activities and gases in the system should continue, without these being considered to be new entrants. This possibility for the inclusion of additional activities and gases after 2020 should be without prejudice to the Union-wide quantity of allowances under the ETS and amounts derived from it.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<i>higher compliance costs. Monitoring, reporting and verification requirements should be simplified for small emitters covered by the EU ETS.</i>		
Recital 15			
<p>(15) The European Council of October 2014 agreed that 10% of the EU ETS allowances to be auctioned by Member States are to be distributed among certain Member States for the purpose of solidarity, growth and interconnections while the rest of the allowances are distributed among all Member States in shares that are identical to the shares applicable in 2013-20, including for Member States which joined the Union during this period. Member States with a GDP per capita below 90% of the Union average in 2013 should benefit from this solidarity and the corresponding Annex to this Directive should be updated accordingly. The derogation from contributions to this distribution in 2013-20 for certain Member States</p>		<p><u>[(15) integrated into recital 6]</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
with an average level of income per capita more than 20% higher than the average in the Union should expire.			
Recital 16			
(16) Decision (EU) 2015/... establishes a Market Stability Reserve for the EU ETS in order to make auction supply more flexible and make the system more resilient. This decision also provides for allowances not allocated to new entrants up to 2020 and not allocated because of cessations and partial cessations to be placed in the Market Stability Reserve.		(16) Decision (EU) 2015/1814 establishes a Market Stability Reserve for the EU ETS in order to make auction supply more flexible and make the system more resilient. This decision also provides for allowances not allocated to new entrants up to 2020 and not allocated because of cessations and partial cessations to be placed in the Market Stability Reserve.	
Amendment 20 Recital 16 a (new)			
	<i>(16a) In order to considerably reduce the administrative burden faced by companies, it should be left open to the Commission to consider measures such as automating the submission and</i>	<u>(16a) A well-functioning, reformed EU ETS with an instrument to stabilise the market is a key pillar for the EU to reach its agreed target for 2030 and the commitments under the Paris Agreement. To</u>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>verification of emissions reports, fully exploiting the potential of information and communication technologies.</i></p>	<p><u>address the current imbalance between supply and demand of allowances in the market, a Market Stability Reserve will be established in 2018 and become operational as of 2019. Considering the need to deliver a credible investment signal to reduce CO2 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 until 31 December 2023 the percentage rates for determining the number of allowances to be placed each year in the reserve. Furthermore, as a long-term measure to improve the functioning of the EU ETS, unless otherwise decided in the first review in accordance with Article 3 of Decision (EU) 2015/1814, as from 2024, allowances held in the reserve above the total number of allowances auctioned during the previous year should no longer be valid. Regular reviews of the functioning of the reserve should consider whether to maintain those increased rates and should also</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<p><u>consider whether it is necessary to limit the validity of allowances held in the reserve if the number of allowances held in the reserve exceeds a certain threshold such as the verified emissions from installations under the EU ETS in a year.</u></p>	
Recital 17			
<p>(17) In order to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of Article 3d(3), Article 10(4), Article 10a(1) and (8), Article 10b, Article 10d, Article 14(1), Article 15, Article 19(3), Article 22, Article 24, Article 24a and Article 25a of Directive 2003/87/EC. In order to reduce delegations to the minimum, the existing powers in respect of the operation of the special reserve, for</p>		<p>(17) In order to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of Article 3d(3), Article 10(4), Article 10a(1) [...], Article 10b, [...] Article 19(3), Article 22, Article 24, [...] and Article 25a of Directive 2003/87/EC. [...]</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>attributing quantities of international credits which may be exchanged and placing further standards for what may be exchanged and for further rules on double counting in Article 3f(9), Article 11a(9) and Article 11b(7) of Directive 2003/87/EC are deleted. Acts adopted pursuant to those provisions continue to apply. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council. As regards the delegation in respect of Article 10(4) of Directive 2003/87/EC, those Member States which do not use the common platform for auctioning may continue not to do so.</p>			

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Amendment 21 Recital 17 a (new)</p> <p><i>(17a) The delegated acts referred to in Articles 14 and 15 should simplify the rules of monitoring, reporting and verification as far as possible in order to reduce red tape for operators. The delegated act referred to in Article 19(3) should facilitate access to and the use of the registry, especially for small operators.</i></p>		
		<p><u>(17a) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. As regards the delegation in respect of Article 10(4) of Directive 2003/87/EC, those Member States which do not use the common platform for auctioning may continue not to do so. The delegation should also not affect the Member States' right to determine the use of their</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		auctioning revenues.	
Recital 17 b (new)			
		<p>(17b) <u>In order to reduce delegations to the Commission to the minimum, the existing powers in respect of the operation of the special reserve, for attributing quantities of international credits which may be exchanged and placing further standards for what may be exchanged and for further rules on double counting in Article 3f(9), Article 11a(9) and Article 11b(7) of Directive 2003/87/EC should be deleted. Acts adopted pursuant to those provisions continue to apply.</u></p>	
Recital 18			
<p>(18) In order to ensure uniform conditions for the implementation of the third subparagraph of Article 10a(2) and Article 16(12) of Directive 2003/87/EC, implementing powers should be conferred on the Commission.</p>		<p>(18) In order to ensure uniform conditions for the implementation of the third to eighth subparagraphs of Article 10a(2), <u>Article 10a(8), Article 10a(21), Article 10d, Article 14(1) and (2) and Annex IV, Article 15 and Annex V,</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>Those necessary implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷. In order to reduce implementing acts to the minimum, the existing power in Article 11a(8) of Directive 2003/87/EC in respect of further specifying quantities of international credits for exchange should be deleted. Acts adopted pursuant to that provision continue to apply.</p> <p>⁷ Regulation (EU) No 182/2011 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers, OJ L 55, 28.02.2011, p. 13.</p>		<p>Article 16 and Article 24a of Directive 2003/87/EC, implementing powers should be conferred on the Commission. Those [...] implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷.</p> <p>⁷ Regulation (EU) No 182/2011 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers, OJ L 55, 28.02.2011, p. 13.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Recital 18 a (new)			
		<p><u>(18a) In order to reduce the empowerments to the Commission to the minimum, the existing powers in respect of the adopting of acts concerning the operation of the special reserve, for further specifying quantities of international credits for exchange, for attributing quantities of international credits which may be exchanged and placing further standards for what may be exchanged and for further rules on double counting in Article 3f(9), Article 11a(8), Article 11a(9) and Article 11b(7) of Directive 2003/87/EC should be deleted. Acts adopted pursuant to those provisions continue to apply.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Recital 18 b (new)</p>	<p>(18b) <u>Acts adopted pursuant to Directive 2003/87/EC concerning subject matters for which this Directive grants the Commission the power to adopt delegated or implementing acts continue to apply until repealed or amended by the latter. In the case of Commission Decision 2011/278/EU, the last column of Annex I thereof will be repealed if and when the Commission adopts an implementing act for the purposes of determining the revised benchmark values for free allocation. In order to increase predictability and simplify administrative processes, Commission Decision 2014/746/EU should continue to apply until the end of the year 2020.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Recital 18 c (new)			
		<p>(18c) <u>The delegated and implementing acts referred to in this Directive, particularly in respect of provisions on monitoring, reporting and verification and on the Union Registry, should aim to simplify rules and reduce administrative burden to the extent possible, without undermining the environmental integrity, security or reliability of the EU ETS. When preparing those acts, the Commission should in particular assess the effectiveness of simplified monitoring rules, including for emergency and backup electricity generation units, taking into account the operating hours per year, and for other small emitters, and the possibilities to further develop such rules.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(19) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents⁸, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers, where appropriate, the transmission of such documents to be justified.</p> <hr/> <p>⁸ OJ C 369, 17.12.2011, p. 14.</p>			
<p>(20) This Directive seeks to contribute to the objective of a high level of environmental protection in accordance with the principle of sustainable development in the most economically efficient manner while providing installations adequate time to adapt and providing for more favourable treatment of specially affected</p>			

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>persons in a proportionate manner to the maximum extent compatible with the other objectives of this Directive.</p>			
<p>(21) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.</p>			
<p>(22) Since the objectives of this Directive cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,</p> <p>HAVE ADOPTED THIS DIRECTIVE:</p>			

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p><i>Article 1</i></p> <p><i>Amendments to Directive 2003/87/EC</i></p> <p>Directive 2003/87/EC is amended as follows:</p>	<p style="text-align: center;">Amendment 22 Article 1 - Point - 1 (new)</p> <p><i>(-1) Throughout the Directive, the term 'Community scheme' is replaced by 'EU ETS' and any necessary grammatical changes are made.</i></p>	<p><i>(-1) Throughout the Directive, the word "Community" is replaced by "Union".</i></p>	
	<p style="text-align: center;">Article 1 - Point - 2 (new)</p>		
		<p><i>(-2) Throughout the Directive, the word "scheme" is replaced by "system".</i></p>	
	<p style="text-align: center;">Amendment 23 Article 1 - Point - 1a (new)</p>		
	<p><i>(-1a) Throughout the Directive, the term 'Community-wide' is replaced by 'Union-wide'.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Amendment 24 Article 1 - Point -1b (new)			
	<i>(-1b) Throughout the Directive, except in the cases referred to in points (-1) and (-1a) and in Article 26(2), the term 'Community' is replaced by 'Union' and any necessary grammatical changes are made.</i>		
Amendment 25 Article 1 - Point -1c (new)			
	<i>(-1c) Throughout the Directive, the words 'regulatory procedure referred to in Article 23(2)' are replaced by the words 'examination procedure referred to in Article 30c(2)'.</i>		
Amendment 26 Article 1 - Point -1d (new)			
	<i>(-1d) In Article 3g, in point (d) of Article 5(1), in point (c) of Article 6(2), in the second subparagraph of Article 10a(2), in Article 14(2), (3) and (4), in Article 19(1) and (4) and in Article 29a(4) the word 'regulation' is replaced by the word 'act' and any necessary grammatical changes are made.</i>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Amendment 28 Article 1 - Point -1f (new) Directive 2003/87/EC - Article 3 - point h</p> <p><i>(-1f) In Article 3, point (h) is replaced by the following:</i></p> <p>'(h) 'new entrant' means:</p> <ul style="list-style-type: none"> - any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emissions permit for the first time after 30 June 2018, - any installation carrying out an activity which is included in the Union scheme pursuant to Article 24(1) or (2) for the first time, or - any installation carrying out one or more of the activities indicated in Annex I or an activity which is included in the Union scheme pursuant to Article 24(1) or (2), which has had a significant extension after 30 June 2018, only in so far as this extension is concerned;' 	<p>(O) In <u>Article 3, point (h)</u> is replaced by the following:</p> <p><u>"(h) 'new entrant' means:</u></p> <ul style="list-style-type: none"> - <u>any installation carrying out one or more of the activities indicated in Annex I, which has obtained a greenhouse gas emissions permit for the first time within the period from 3 months before the date for submission of the list under Article 11(1), until 3 months before the date for the submission of the subsequent list under that Article [...].</u> <u>[...]</u> 	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p style="text-align: center;">Amendment 29 Article 1 - Point -1g (new) Article 3 - point ua (new)</p> <p><i>(-1g) In Article 3, the following point is added:</i></p> <p><i>'(ua) 'small emitter' means an installation with low emissions which is operated by a small or medium-sized enterprise^{1a} and that meets at least one of the following criteria:</i></p> <ul style="list-style-type: none"> <i>– the average annual verified emissions of that installation reported to the relevant competent authority during the trading period immediately preceding the current trading period, with the exclusion of CO2 stemming from biomass and before any subtraction of transferred CO2, is less than 50 000 tonnes of carbon dioxide equivalent per year;</i> <i>– the average annual emissions data referred to in the first indent are not available in relation to that installation or are no longer applicable to that installation because of changes in the installation's boundaries or</i> 		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>changes to the operating conditions of the installation, but the annual emissions of that installation for the following five years, with the exclusion of CO2 stemming from biomass and before subtraction of transferred CO2, are expected to be less than 50 000 tonnes of carbon dioxide equivalent per year.</i></p> <p><i>^{1a} As defined in Annex of recommendation 2003/361/EC</i></p>		
	<p>Amendment 30</p> <p>Article 1 - Point -1h (new)</p> <p>Article 3c - paragraph 2</p>		
	<p><i>(-1h) In Article 3c, paragraph 2 is replaced by the following:</i></p> <p>'2. For the period referred to in Article 13 beginning on 1 January 2013, and, in the absence of any amendments following the review referred to in Article 30(4), for each subsequent period, the total quantity of allowances to be allocated to aircraft operators shall be equivalent to 95 % of the historical aviation emissions multiplied by the number of years</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>in the period.</p> <p><i>The total quantity of allowances to be allocated to aircraft operators in 2021 shall be 10% lower than the average allocation for the period from 1 January 2014 to 31 December 2016, and then decrease annually at the same rate as that of the total cap for the EU ETS referred to in the second subparagraph of Article 10(1) so as to bring the cap for the aviation sector more in line with the other EU ETS sectors by 2030.</i></p> <p><i>For aviation activities to and from aerodromes located in countries outside the EEA, the quantity of allowances to be allocated from 2021 onwards may be adjusted taking into account the future global market-based mechanism agreed by the International Civil Aviation Organisation (ICAO) in its 39th assembly. By 2019, the Commission shall present a legislative proposal to the European Parliament and the Council concerning those activities following the 40th assembly of the ICAO.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	This percentage may be reviewed as part of the general review of this Directive.'		
	<p style="text-align: center;">Amendment 31</p> <p style="text-align: center;">Article 1 - Point -1i (new) Article 3c - paragraph 4</p>		
	<p><i>(-1i) In Article 3c(4), the last sentence is replaced by the following:</i></p> <p>That decision shall be considered within the Committee referred to in Article 30c(1).</p>		
	<p style="text-align: center;">Amendment 32</p> <p style="text-align: center;">Article 1 - Point -1j (new) Article 3d - paragraph 2</p>		
	<p><i>(-1j) In Article 3d, paragraph 2 is replaced by the following:</i></p> <p>'2. From 1 January 2021, 50 % of allowances shall be auctioned.'</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(1) In Article 3d(3), the second subparagraph is replaced by the following:</p> <p>“The Commission shall be empowered to adopt a delegated act in accordance with Article 23”.</p>	<p>Amendment 33 Article 1 Point 1 Article 3d - paragraph 3</p> <p>(1) In Article 3d, <i>paragraph 3</i> is replaced by the following:</p> <p>‘3. The Commission is empowered to adopt delegated <i>acts</i> in accordance with Article 30b to <i>supplement this Directive by laying down detailed arrangements for the auctioning by Member States of allowances not required to be issued free of charge in accordance with paragraphs 1 and 2 of this Article or Article 3f(8). The number of allowances to be auctioned in each period by each Member State shall be proportionate to its share of the total attributed aviation emissions for the reference year reported pursuant to Article 14(3) and verified pursuant to Article 15. For the period referred to in Article 3c(1), the reference year shall be 2010 and for each subsequent period referred to in</i></p>	<p>“The Commission shall be empowered to adopt [...] delegated acts in accordance with Article 23 to supplement this directive concerning the detailed arrangements for the auctioning by Member States of aviation allowances in accordance with paragraphs 1 and 2 of this Article or Article 3f (8). The number of allowances to be auctioned in each period by each Member State shall be proportionate to its share of the total attributed aviation emissions for all Member States for the reference year reported pursuant to Article 14(3) and verified pursuant to Article 15. For the period referred to in Article 3c(1), the reference year shall be 2010 and for each subsequent period referred to in Article 3c the reference year shall be the calendar year ending</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>Article 3c the reference year shall be the calendar year ending 24 months before the start of the period to which the auction relates.'</i></p>	<p><u>24 months before the start of the period to which the auction relates.</u> <u>The delegated act shall ensure the respect of the principles set out by Article 10 (4) subparagraph 1."</u></p>	
	<p>Article 34 Article 1 Point 1a (new) Article 3d - paragraph 1</p>		
	<p><i>(1a) In Article 3d(4), the first subparagraph is replaced by the following:</i></p> <p>'4. All revenues <i>shall</i> be used to tackle climate change in the Union and third countries, inter alia, to reduce greenhouse gas emissions, to adapt to the impacts of climate change in the Union and third countries, especially developing countries, to fund research and development for mitigation and adaptation, including in particular in the fields of aeronautics and air transport, to reduce emissions through low-emission transport and to cover the cost of administering the <i>Union</i> scheme.</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>The proceeds of auctioning <i>may</i> also be used to fund contributions to the Global Energy Efficiency and Renewable Energy Fund, and measures to avoid deforestation.'</p>		
	<p>Amendment 35 Article 1 Point 1b Article 3e - paragraph 1a (new)</p>		
	<p><i>(1b) In Article 3e, the following paragraph is added:</i></p> <p><i>'1a. From 2021 onwards, no free allocation of allowances under this Directive shall be granted to the aviation sector unless it is confirmed by a subsequent decision adopted by the European Parliament and the Council, since ICAO Resolution A-39/3 envisages that a global market-based measure is to apply from 2021. In that respect, the co-legislators shall take into account the interaction between that market-based measure and the EU ETS.'</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Article 1 - paragraph 2			
(2) In Article 3f, paragraph (9) is deleted.			
Amendment 36 Article 1 Point 2a (new) Chapter II a (new)			
	<p><i>(2a) The following Chapter is inserted:</i></p> <p>'CHAPTER IIa <i>Inclusion of shipping in the absence of progress at international level</i></p> <p>Article 3ga <i>Introduction</i></p> <p><i>As from 2021, in the absence of a comparable system operating under the IMO, CO2 emissions emitted in Union ports and during voyages to and from Union ports of call, shall be accounted for through the system set out in this Chapter, to be operational from 2023.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>Article 3gb Scope</i></p> <p><i>By 1 January 2023, the provisions of this Chapter shall apply to the allocation and issue of allowances from ships within, arriving at or departing from ports under the jurisdiction of a Member State in accordance with the provisions laid down in Regulation (EU) 2015/757. Articles 12 and 16 shall apply to maritime activities in the same manner as to other activities.</i></p> <p><i>Article 3gc Extra allowances for maritime sector</i></p> <p><i>By 1 August 2021, the Commission shall adopt delegated acts in accordance with Article 30b in order to supplement this Directive by setting the total quantity of allowances for the maritime sector in line with other sectors, the method of allocation of allowances for that sector through auctioning and the</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>special provisions with regard to the administering Member State. When the maritime sector is included in the EU ETS, the total amount of allowances shall be increased by that amount.</i></p> <p><i>20% of the revenues generated from the auctioning of allowances referred to in Article 3gd shall be used through the fund established under that Article ('Maritime Climate Fund') to improve energy efficiency and support investments in innovative technologies to reduce CO2 emissions in the maritime sector, including short sea shipping and ports.</i></p> <p><i>Article 3gd Maritime Climate Fund</i></p> <p><i>1. A fund aimed at compensating for maritime emissions, improving energy efficiency and facilitating investments in innovative technologies to reduce CO2 emissions of the maritime sector shall be established at Union level.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>2. Ship operators may pay, on a voluntary basis, an annual membership contribution to the fund in accordance with their total emissions reported for the preceding calendar year under Regulation (EU) 2015/757. By way of derogation from Article 12(3), the fund shall surrender allowances collectively on behalf of ship operators which are members of the fund. The contribution per tonne of emissions shall be set by the fund by 28 February each year, and shall not be less than the level of the market price for allowances in the preceding year.</p> <p>3. The fund shall acquire allowances equal to the collective total quantity of emissions of its members during the preceding calendar year and surrender them in the registry established under Article 19 by 30 April each year for subsequent cancellation. Contributions shall be made public.</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>4. The fund shall also improve energy efficiency and facilitate investments in innovative technologies to reduce CO2 emissions in the maritime sector, including short sea shipping and ports, through the revenues referred to in Article 3gc. All investments supported by the fund shall be made public and be consistent with the aims of this Directive.</i></p> <p><i>5. The Commission is empowered to adopt a delegated act in accordance with Article 30b to supplement this Directive concerning the implementation of this Article.</i></p> <p><i>Article 3ge</i></p> <p><i>International cooperation</i></p> <p><i>In the event that an international agreement on global measures to reduce greenhouse gas emissions from maritime transport is reached, the Commission shall review this Directive and shall, if appropriate, propose amendments</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<i>in order to ensure alignment with that international agreement.'</i>		
	<p align="center">Article 1 Point 2a (new) Article 6 - paragraph 1 - subparagraph 3</p>		
		(2a) <u>In Article 6(1), the third subparagraph is deleted.</u>	
	<p align="center">Amendment 37 Article 1 Point 2b (new) Article 5 - subparagraph 1 - point da (new)</p>		
	<p><i>(2b) In Article 5, subparagraph 1, the following point is added: '(da) all CCU technologies that will be used in the installation in order to help reduce emissions',</i></p>	<p>(2b) [...] <u>Article 8 is replaced by the following:</u> " <u>Article 8</u> <u>Coordination with Directive 2010/75/EU of the European Parliament and of the Council (*)</u> <u>Member States shall take the necessary measures to ensure that, where installations carry out activities that are included in Annex I to Directive 2010/75/EU (*), the conditions of, and procedure for, the issue of a greenhouse gas emissions permit</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<p>are coordinated with those for the permit provided for in that Directive. The requirements of Articles 5, 6 and 7 of this Directive may be integrated into the procedures provided for in Directive 2010/75/EU.</p> <p>_____</p> <p>(*) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17) ."</p>	
	<p>Amendment 38 Article 1 Point 2c (new) Article 6 - paragraph 2 - points ea and eb (new)</p>		
	<p><i>(2c) In Article 6(2), the following points are added:</i> <i>'(ea) all legal requirements on social responsibility and reporting in order to ensure equal and effective implementation of environmental regulations and ensure that competent authorities and stakeholders, including workers' representatives, representatives of civil society and local communities, have access to</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>all relevant information, as laid down in the Aarhus Convention and implemented in Union and national law, including this Directive;</i></p> <p><i>(eb) an obligation to publish every year comprehensive information in respect of combating climate change and compliance with Union directives in the field of the environment, health and safety at work; that information shall be accessible to workers' representatives and to the representatives of civil society from local communities in the vicinity of the installation.'</i></p>		
	<p>Amendment 39 Article 1 Point 2d (new) Article 7</p>		
	<p><i>(2d) Article 7 is replaced by the following:</i></p> <p><i>'Article 7</i> <i>Without undue delay, the operator shall inform the competent authority of any planned changes to the nature or functioning of the installation, or any extension or significant reduction of its capacity.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>which may require updating the greenhouse gas emissions permit. Where appropriate, the competent authority shall update the permit. Where there is a change in the identity of the installation's operator, the competent authority shall update the permit <i>with the relevant identity and contact information</i> of the new operator.'</p>		
<p>(3) In Article 9, the second and third paragraphs are replaced by the following: "Starting in 2021, the linear factor shall be 2.2%."</p>	<p>Amendment 142 Article 1 Point 3 Article 9 - paragraphs 2 and 3</p> <p>Starting in 2021, the linear factor shall be 2,2% <i>and shall be kept under review with a view to increasing it to 2,4% by 2024 at the earliest.</i></p>	<p>"Starting in 2021, the linear factor shall be 2,2%."</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(4) Article 10 is amended as follows:</p> <p>(a) three new subparagraphs are added to paragraph 1:</p>	<p style="text-align: center;">Amendment 41 Article 1 Point 4 - point a</p> <p>Article 10 - paragraph 1 - subparagraph 1</p> <p><i>(a) paragraph 1 is replaced by the following:</i> <i>'1. From 2019 onwards, Member States shall either auction or cancel allowances that are not allocated free of charge in accordance with Articles 10a and 10c and are not placed in the MSR.'</i></p>	<p>(a) the following subparagraphs are added to paragraph 1:</p>	
<p>"From 2021 onwards, the share of allowances to be auctioned by Member States shall be 57%.</p>	<p style="text-align: center;">Amendment 42 Article 1 Point 4 - point a</p> <p>Article 10 - paragraph 1 - subparagraph 2</p> <p>From 2021 onwards, the share of allowances to be auctioned <i>or cancelled</i> shall be 57%, <i>and that share shall decrease by no more than five percentage points over the entire ten year period beginning on 1 January 2021 pursuant to Article 10a(5). Such an adjustment shall take place solely in the form of a reduction in allowances auctioned pursuant to</i></p>	<p>"From 2021 onwards, and <u>without prejudice to a possible reduction pursuant to Article 10a(5a), [...]</u> the share of allowances to be auctioned [...] shall be 57%.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>point (a) of the first subparagraph of paragraph 2. Where no adjustment occurs, or where less than five percentage points are required to make an adjustment, the remaining quantity of allowances shall be cancelled. Such cancellation shall not exceed 200 million allowances.</i></p>		
<p>Amendment 43 Article 1 Point 4 - point a Article 10 - paragraph 1 - subparagraph 3</p>			
<p>2% of the total quantity of allowances between 2021 and 2030 shall be auctioned to establish a fund to improve energy efficiency and modernise the energy systems of certain Member States as set out in Article 10d of this Directive (“the Modernisation Fund”).</p>	<p>2% of the total quantity of allowances between 2021 and 2030 shall be auctioned <i>in order</i> to establish a fund to improve energy efficiency and modernise the energy systems of certain <i>Member States</i> as set out in Article 10d of this Directive (“the Modernisation Fund”). <i>The quantity set out in this subparagraph shall form part of the 57% share of allowances to be auctioned as set out in the second subparagraph.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p style="text-align: center;">Amendment 44 Article 1 Point 4 - point a Article 10 - paragraph 1 - subparagraph 3a (new)</p> <p><i>(3a) In addition, 3% of the total quantity of allowances to be issued between 2021 and 2030 shall be auctioned in order to compensate sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs actually incurred as a result of greenhouse gas emission costs being passed on in electricity prices as set out in Article 10a(6) of this Directive. Two thirds of the quantity set out in this subparagraph shall form part of the 57% share of allowances to be auctioned as referred to in the second subparagraph.</i></p>		
	<p style="text-align: center;">Amendment 45 Article 1 Point 4 - point a Article 10 - paragraph 1 - subparagraph 3b (new)</p> <p><i>(3b) A Just Transition Fund shall be created as of 1 January 2021 as a complement to the European Regional Development Fund and the European Social Fund and</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>shall be funded through the pooling of 2% of the auctioning revenues.</i></p> <p><i>The revenues of those auctions shall remain at Union level, and shall be used to support regions which combine a high share of workers in carbon-dependent sectors and a GDP per capita well below the Union average. Such measures shall respect the principle of subsidiarity.</i></p> <p><i>Those auctioning revenues aimed at just transition may be put to use in different ways, such as:</i></p> <ul style="list-style-type: none"> <i>- creating redeployments and/or mobility cells,</i> <i>- education/training initiatives to re-skill or upskill workers,</i> <i>- support in job-seeking,</i> <i>- business creation, and</i> <i>- monitoring and pre-emptive measures to avoid or minimise the negative impact of the restructuring process on physical and mental health.</i> <p><i>Since the core activities to be</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>financed by a Just Transition Fund are strongly related to the labour market, social partners shall be actively involved in the fund management in a manner based on the model of the European Social Fund committee and the participation of local social partners shall be a key requirement for projects to get funding.</i></p>		
<p>The total remaining quantity of allowances to be auctioned by Member States shall be distributed in accordance with paragraph 2. ";</p>	<p>The total remaining quantity of allowances to be auctioned by Member States, <i>after deducting the quantity of allowances referred to in the first subparagraph of Article 10a(8)</i> shall be distributed in accordance with paragraph 2.</p>	<p>Amendment 46 Article 1 Point 4 - point a Article 10 - paragraph 1 - subparagraph 4</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p style="text-align: center;">Amendment 47 Article 1 Point 4 - point a</p> <p>Article 10 - paragraph 1 - subparagraph 4a (new)</p> <p>(4a) On 1 January 2021, 800 million allowances placed in the MSR shall be cancelled.</p>		
<p>(b) paragraph 2 is amended as follows:</p> <p>(i) in point (a), "88%" is replaced by "90%";</p> <p>(ii) point (b) is replaced by the following:</p> <p>"(b) 10% of the total quantity of allowances to be auctioned being distributed amongst certain Member States for the purpose of solidarity and growth within the Community, thereby increasing the amount of allowances that those Member States auction under point (a) by the percentages specified in Annex IIa."; and</p>	<p style="text-align: center;">Amendment 48 Article 1 Point 4 - point b - point ii</p> <p>Article 10 - paragraph 2 - point b</p> <p>(b) 10% of the total quantity of allowances to be auctioned being distributed amongst certain Member States for the purpose of solidarity and growth within the Community, thereby increasing the amount of allowances that those Member States auction under point (a) by the percentages specified in Annex IIa. For those Member States eligible to benefit from the Modernisation Fund as set out in</p>	<p>"(b) 10% of the total quantity of allowances to be auctioned being distributed amongst certain Member States for the purpose of solidarity, growth and interconnections within the <u>Union</u>, thereby increasing the amount of allowances that those Member States auction under point (a) by the percentages specified in Annex IIa."; [...]</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(iii) point (c) is deleted;</p> <p>(iv) the third subparagraph is replaced by the following:</p> <p>"If necessary, the percentage referred to in point (b) shall be adapted in a proportional manner to ensure that the distribution is 10%."</p>	<p><i>Article 10d, their share of allowances specified in Annex IIa shall be transferred to their share in the Modernisation Fund.</i></p>		
<p>Amendment 49</p> <p>Article 1 Point 4 - point ba (new)</p> <p>Article 10 - paragraph 3 - introductory part</p>			
	<p><i>(ba) in paragraph 3, the introductory part is replaced by the following:</i></p> <p>'3. Member States shall determine the use of revenues generated from the auctioning of allowances. 100% of the total revenues generated from the auctioning of allowances referred to in paragraph 2 or the equivalent in financial value of these revenues, shall be used for one or more of the following:'</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Amendment 50 Article 1 Point 4 - point bb (new) Article 10 - paragraph 3 - point b</p> <p><i>(bb) in paragraph 3, point (b) is replaced by the following:</i></p> <p>'(b) to develop renewable energies to meet the commitment of the Union to renewable energies by 2030, as well as to develop other technologies contributing to the transition to a safe and sustainable low- carbon economy and to help meet the commitment of the Union to increase energy efficiency by 2030 at the levels agreed in appropriate legislative acts;'</p>		
	<p align="center">Amendment 51 Article 1 Point 4 - point bc (new) Article 10 - paragraph 3 - point f</p> <p><i>(bc) in paragraph 3, point (f) is replaced by the following:</i></p> <p>'(f) to encourage a shift to low emission and public forms of transport and support - as long as CO2 costs are not similarly reflected for other surface transport modes - electrified transport modes such as railways</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>or other electrified surface transport modes taking into account their indirect EU ETS costs;</i></p>		
	<p>Amendment 52 Article 1 Point 4 - point bd (new) Article 10 - paragraph 3 - point h</p> <p><i>(bd) in paragraph 3, point (h) is replaced by the following:</i> '(h) measures intended to increase energy efficiency, <i>district heating systems</i> and insulation or to provide financial support in order to address social aspects in lower and middle income households;</p>		
<p>(c) in paragraph 3, the following points (j), (k) and (l) are added:</p>	<p>Article 1 Point 4 - point c Article 10 - paragraph 3j</p>	<p>(c) in paragraph 3, the following points [...] are added:</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>"(j) to fund financial measures in favour of sectors or subsectors that are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, provided that these measure meet the conditions set out in Article 10a(6);</p> <p>(k) for climate financing actions in vulnerable third countries, including adaptation to the impacts of climate change;</p>	<p>(j) to fund financial measures in favour of sectors or subsectors that are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, provided that not more than 20% of revenues are used for this purpose, and that these measures meet the conditions set out in Article 10a(6);</p>	<p>Amendment 53 Article 1 Point 4 - point c Article 10 - paragraph 3 - point j</p> <p>(j) [...] (deleted)</p>	
<p>(l) to promote skill formation and reallocation of labour affected by the transition of jobs in a decarbonising economy in close coordination with the social partners."</p>	<p>(l) to address the social impact of the decarbonisation of their economies and promote skill formation and reallocation of labour affected by the transition of jobs in close coordination with the social partners.</p>	<p>Amendment 54 Article 1 Point 4 - point c Article 10 - paragraph 3 - point l</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p style="text-align: center;">Amendment 55 Article 1 Point 4 - point ca (new) Article 10 - paragraph 3 - subparagraph 1a (new)</p> <p><i>(ca) in paragraph 3, the following subparagraph is inserted: 'This information shall be provided through a standardised template prepared by the Commission, including information on the use of auctioning revenues for the different categories and the additionality of the use of the funds. The Commission shall make this information public on its website.'</i></p>		
	<p style="text-align: center;">Amendment 56 Article 1 Point 4 - point cb (new) Article 10 - paragraph 3 - subparagraph 2</p> <p><i>(cb) in paragraph 3, the second subparagraph is replaced by the following: 'Member States shall be deemed to have fulfilled the provisions of this paragraph if they have in place and implement fiscal or financial</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>support policies, including in particular in developing countries, or domestic regulatory policies, which leverage additional financial support, established for the purposes set out in the first subparagraph and which have a value equivalent to 100% of the revenues generated from the auctioning of allowances referred to in paragraph 2 and have reported those policies in a standardised template provided by the Commission.</p>		
Amendment 57 Article 1 Point 4 - point d Article 10 - paragraph 4 - subparagraphs 1, 2 and 3			
<p>(d) the third subparagraph of paragraph 4 is replaced by the following:</p> <p>"The Commission shall be empowered to adopt a delegated act in accordance with Article 23."</p>	<p>(d) in paragraph 4, the first, second and third subparagraphs are replaced by the following:</p> <p>'4. The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive by laying down detailed arrangements for timing, administration and other aspects of auctioning to</p>	<p>(d) [...] <u>in paragraph 4 the first subparagraph and the first sentence of the second subparagraph are</u> replaced by the following:</p> <p>"4. The Commission shall be empowered to adopt [...] delegated acts in accordance with Article 23 <u>to supplement this Directive concerning the timing, administration and other aspects of auctioning to ensure that it is</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>ensure that it is conducted in an open, transparent, harmonised and non-discriminatory manner. To this end, the process shall be predictable, in particular as regards the timing and sequencing of auctions and the estimated volumes of allowances to be made available. Where an assessment concludes in relation to the individual industrial sectors that no significant impact on sectors or subsectors exposed to a significant risk of carbon leakage is to be expected, the Commission may, in exceptional circumstances, adapt the timetable for the period referred to in Article 13(1) beginning on 1 January 2013 so as to ensure the orderly functioning of the market. The Commission shall make no more than one such adaptation for a maximum number of 900 million allowances.</i></p> <p><i>Auctions shall be designed to ensure that:</i></p> <p><i>(a) operators, and in particular any SMEs covered by the EU ETS, have full, fair and equitable</i></p>	<p><u>conducted in an open, transparent, harmonised and non-discriminatory manner. To this end, the process shall be predictable, in particular as regards the timing and sequencing of auctions and the estimated volumes of allowances to be made available.</u></p> <p><u>Those delegated acts shall ensure that auctions are designed to ensure that:”</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>access;</p> <p><i>(b) all participants have access to the same information at the same time and that participants do not undermine the operation of the auction;</i></p> <p><i>(c) the organisation and participation in auctions is cost-efficient and undue administrative costs are avoided; and</i></p> <p><i>(d) small emitters have access to allowances.'</i></p>		
	<p style="text-align: center;">Amendment 58</p> <p style="text-align: center;">Article 1 Point 4 - point da (new)</p> <p style="text-align: center;">Article 10 - paragraph 4 - subparagraph 4a (new)</p>		
	<p><i>(da) in paragraph 4, the following subparagraph is added:</i></p> <p><i>'Every two years Member States shall report to the Commission the closure of electricity generation in their territory capacity due to national measures. The Commission shall calculate the equivalent number of allowances that those closures represent and inform the Member States. Member States may cancel a corresponding volume of</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>allowances out of the total quantity distributed in accordance with paragraph 2.'</i></p>		
	<p>Amendment 59 Article 1 Point 4 - point db (new) Article 10a - paragraph 5</p> <p><i>(db) paragraph 5 is replaced by the following:</i> '5. The Commission shall monitor the functioning of the EU ETS. Each year, it shall submit a report to the European Parliament and to the Council on its functioning including the implementation of the auctions, liquidity and the volumes traded. The report shall also address the interaction of the EU ETS with other Union climate and energy policies, including how those policies impact upon the supply-demand balance of the EU ETS and their compliance with the Union's 2030 and 2050 climate and energy goals. The report shall also take into account the risk of carbon leakage and the impact on investment within the Union. Member States shall ensure that any relevant information is submitted to</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	the Commission at least two months before the Commission adopts the report.'		
	<p>Article 1 - Point 4a (new) Article 10a - paragraph 5</p>	<p>(4a) <u>In paragraph 5, the second sentence is replaced by the following:</u></p> <p><u>"Each year, it shall submit a report to the European Parliament and to the Council on the functioning of the carbon market including the implementation of the auctions, liquidity and the volumes traded, and summarising the information provided by Member States on the financial measures referred to in Article 10a(6)."</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(5) Article 10a is amended as follows:</p> <p>(a) the second paragraph of paragraph 1 is replaced by the following:</p> <p>"The Commission shall be empowered to adopt a delegated act in accordance with Article 23. This act shall also provide for additional allocation from the new entrants reserve for significant production increases by applying the same thresholds and allocation adjustments as apply in respect of partial cessations of operation."</p>	<p>Amendment 60 Article 1 - Point 5 - point a Article 10a - paragraph 1 - subparagraphs 1 and 2</p> <p>(a) <i>in paragraph 1, the first and second subparagraphs are replaced by the following:</i></p> <p><i>'1. The Commission is empowered to adopt a delegated act in accordance with 30b to supplement this Directive by setting Union-wide and fully harmonised measures for the allocation of the allowances referred to in paragraphs 4, 5 and 7, including any necessary provisions for a harmonised application of paragraph 19. This act shall also provide for additional allocation from the new entrants reserve for significant production changes. It shall, in particular, provide that any decrease or increase of at least 10% in production expressed as a rolling average of verified production data for the two</i></p>	<p>(a) The first subparagraph of paragraph 1 is replaced by the following:</p> <p>"The Commission shall be empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the Union-wide and fully-harmonised rules for the allocation of the allowances referred to in paragraphs 4, 5, 7 and 19 [...] of this Article [...]."</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>preceding years compared to the production activity reported in accordance with Article 11 is adjusted with a corresponding amount of allowances into, or releasing them from, the reserve referred to in paragraph 7.</i></p> <p><i>When preparing the delegated act referred to in the first subparagraph, the Commission shall take into account the need to limit administrative complexity and prevent gaming of the system. For that purpose it may, as appropriate, use flexibility in the application of the thresholds set out in this paragraph where justified to do so due to specific circumstances. '</i></p>		
	<p>Amendment 61 Article 1 Point 5 - point aa (new) Article 10a - paragraph 1 - subparagraph 3</p> <p><i>(aa) in paragraph 1, the third subparagraph is replaced by the following:</i> 'The measures referred to in the first subparagraph shall, to the</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>extent feasible, determine Union-wide ex-ante benchmarks so as to ensure that allocation takes place in a manner that provides incentives for reductions in greenhouse gas emissions and energy efficient techniques, by taking account of the most efficient techniques, substitutes, alternative production processes, high efficiency cogeneration, efficient energy recovery of waste gases, use of biomass, CCS and CCU, where such facilities are available, and shall not provide incentives to increase emissions. 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.'</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(b) a new third subparagraph is added to paragraph 2 as follows:</p> <p>"The benchmark values for free allocation shall be adjusted in order to avoid windfall profits and reflect technological progress in the period between 2007-8 and each later period for which free allocations are determined in accordance with Article 11(1). This adjustment shall reduce the benchmark values set by the act adopted pursuant to Article 10a by 1% of the value that was set based on 2007-8 data in respect of each year between 2008 and the middle of the relevant period of free allocation, unless:</p>	<p>Article 10a - paragraph 2 - subparagraph 2 as follows:</p> <p><i>The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive for the purpose of determining the revised benchmark values for free allocation. Those acts shall be in accordance with the delegated acts adopted pursuant to paragraph 1 of this Article and shall comply with the following:</i></p>	<p>Amendment 62 Article 1 Point 5 - point b Article 10a - paragraph 3 - introductory part</p> <p>(b) the following subparagraphs are added to paragraph 2 [...]:</p> <p>"The Commission shall adopt implementing acts for the purposes of determining the revised benchmark values for free allocation. Those acts shall be in accordance with the delegated acts adopted pursuant to paragraph 1 of this Article and shall comply with the following:</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Amendment 63</p> <p align="center">Article 1 Point 5 - point b</p> <p>Article 10a - paragraph 2 - subparagraph 3 - point - - i (new)</p>		
	<p><i>(-i) For the period from 2021 to 2025, the benchmark values shall be determined on the basis of information submitted pursuant to Article 11 for the years 2016-2017;</i></p>	<p><u>(a) For the period from 2021 to 2025, the benchmark values shall be determined on the basis of information submitted pursuant to Article 11 for the years 2016-2017.</u></p>	
	<p align="center">Amendment 64</p> <p align="center">Article 1 Point 5 - point b</p> <p>Article 10a - paragraph 2 - subparagraph 3 - point - - i a(new)</p> <p><i>(-ia) On the basis of a comparison of the benchmark values based on this information with the benchmark value contained in Commission Decision 2011/278, the Commission shall determine the annual reduction rate for each benchmark and apply it to the benchmark values applicable in the period 2013-2020 in respect of each year between 2008 and 2023 to determine the benchmark values for the years 2021- 2025;</i></p>	<p><u>On the basis of a comparison of the benchmark values based on this information with the benchmark value contained in Commission Decision 2011/278, as adopted on 27 April 2011 (*), the Commission shall determine the annual reduction rate for each benchmark and apply it to the benchmark values applicable in the period 2013-2020 in respect of each year between 2008 and 2023 to determine the benchmark values for the years 2021-2025.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<p>_____</p> <p>(*) <u>Commission Decision 2011/278 of 27 April 2011 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 130, 17.5.2011, p. 1).</u>"</p>	
	<p>Amendment 65</p> <p>Article 1 Point 5 - point b</p> <p>Article 10a - paragraph 2 - subparagraph 3 - point - i</p>		
<p>(i) On the basis of information submitted pursuant to Article 11, the Commission shall identify whether the values for each benchmark calculated using the principles in Article 10a differ from the annual reduction referred to above by more than 0.5% of the 2007-8 value higher or lower annually. If so, that benchmark value shall be adjusted either 0.5% or 1.5% in respect of each year between 2008 and the middle of the period for which free allocation is to be made;</p>	<p>(i) <i>Where, on the basis of information submitted pursuant to Article 11 the rate of improvement does not exceed 0.25%, the benchmark value shall therefore be reduced by that percentage in the period 2021-2025, in respect of each year between 2008 and 2023;</i></p>	<p>(b) <u>Where the annual reduction rate exceeds 1,5% or is below 0,2%, the benchmark values for 2021-2025 shall be the benchmark values applicable in the period 2013 to 2020 reduced by the relevant one of these two percentage rates in respect of each year between 2008 and 2023.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(ii) By way of derogation regarding the benchmark values for aromatics, hydrogen and syngas, these benchmark values shall be adjusted by the same percentage as the refineries benchmarks in order to preserve a level playing field for producers of these products.</p>	<p>Amendment 66 Article 1 Point 5 - point b Article 10a - paragraph 2 - subparagraph 3 - point - ii</p> <p><i>(ii) Where, on the basis of information submitted pursuant to Article 11 the rate of improvement exceeds 1,75%, the benchmark value shall therefore be reduced by that percentage in the period 2021-2025, in respect of each year between 2008 and 2023.</i></p>	<p>(c) <u>For the period from 2026 to 2030, the benchmark values shall be determined in the same manner on the basis of information submitted pursuant to Article 11 for the years 2021-2022 and with the annual reduction rate applying in respect of each year between 2008 and 2028.</u></p> <p><u>By way of derogation regarding the benchmark values for aromatics, hydrogen and syngas, these benchmark values shall be adjusted by the same percentage as the refineries benchmarks in order to preserve a level playing field for producers of these products.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
The Commission shall adopt an implementing act for this purpose in accordance with Article 22a."	<p style="text-align: center;">Amendment 67 Article 1 Point 5 - point b Article 10a - paragraph 2 - subparagraph 4</p> <p><i>deleted</i></p>	<p style="text-align: center;">Amendment 67 Article 1 Point 5 - point b Article 10a - paragraph 2 - subparagraph 4</p> <p><u>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a.</u></p>	
	<p style="text-align: center;">Amendment 68 Article 1 Point 5 - point ba (new) Article 10a - paragraph 2 - subparagraph 3a (new)</p> <p><i>(ba) in paragraph 2, the following subparagraph is added:</i> <i>‘For the period between 2026 and 2030, the benchmark values shall be determined in the same manner on the basis of information submitted pursuant to Article 11 for the years 2021-2022 and with the annual reduction rate applying in respect of each year between 2008 and 2028.’</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Amendment 69</p> <p align="center">Article 1 Point 5 - point bb (new)</p> <p align="center">Article 10a - paragraph 2 - subparagraph 3b (new)</p> <p><i>(bb) in paragraph 2, the following subparagraph is added:</i></p> <p>‘By way of derogation regarding the benchmark values for aromatics, hydrogen and syngas, these benchmark values shall be adjusted by the same percentage as the refineries benchmarks in order to preserve a level playing field for producers of these products.’</p>		
	<p align="center">Amendment 165</p> <p align="center">Article 1 Point 5 - point bc (new)</p> <p align="center">Article 10a - paragraph 3</p> <p><i>(bc) in paragraph 3, the following subparagraph is added:</i></p> <p>Subject to paragraphs 4 and 8, and notwithstanding Article 10c, no free allocation shall be given to electricity generators, to installations for the capture of CO₂, to pipelines for transport of CO₂ or to CO₂ storage sites.</p> <p><i>Electricity generators producing electricity from waste gas are not</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>electricity generators within the meaning of Article 3(u) of this Directive. In benchmark calculations, the full carbon content of waste gases used for electricity production shall be taken into account.</i></p>		
<p>Amendment 70 Article 1 Point 5 - point bd (new) Article 10a - paragraph 4</p>			
	<p><i>(bd) paragraph 4 is replaced by the following:</i></p> <p>'4. Free allocation shall be given to district heating as well as to high efficiency cogeneration, as defined by Directive 2004/8/EC, for economically justifiable demand, in respect of the production of heating or cooling.'</p>		
<p>Amendment 71 Article 1 Point 5 - point c Article 10a - paragraph 5</p>			
<p>(c) paragraph 5 is replaced by the following:</p> <p>"In order to respect the auctioning share set out in Article 10, the sum of free allocations in every year</p>	<p>5. Where the sum of free allocations in <i>a given</i> year does not reach the maximum level,</p>	<p>"5. In order to respect the auctioning share set out in Article 10, [...] in every year where the</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>where the sum of free allocations does not reach the maximum level that respects the Member State auctioning share, the remaining allowances up to that level shall be used to prevent or limit reduction of free allocations to respect the Member State auctioning share in later years. Where, nonetheless, the maximum level is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner.";</p>	<p><i>respecting the Member States' auctioning share set out in Article 10(1), the remaining allowances up to that level shall be used to prevent or limit the reduction of free allocations in subsequent years. Where, however, the maximum level is reached, an amount of allowances equivalent to a reduction of up to five percentage points of the share of allowances to be auctioned by Member States over the entire ten year period beginning on 1 January 2021, pursuant to Article 10(1), shall be distributed free of charge to sectors and sub-sectors pursuant to Article 10b. Where, nonetheless, this reduction is insufficient to meet the demand of sectors or sub-sectors pursuant to Article 10b, free allocations shall be adjusted accordingly by a uniform cross-sectoral correction factor to sectors with an intensity of trade with third countries below 15% or a carbon intensity below 7Kg CO2/Euro GVA.</i></p>	<p>sum of free allocations does not reach the maximum level that respects the Member State auctioning share, the remaining allowances up to that level shall be used to prevent or limit reduction of free allocations to respect the Member State auctioning share in later years. Where, nonetheless, the maximum level is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Article 1 Point 5 - point c Article 10a - paragraph 5a (new)</p>	<p>5a. By way of derogation from [...] paragraph 5 of this Article, an additional amount of up to 2% of the total quantity [...] shall, to the extent necessary, be used to increase the maximum level available under paragraph 5.";</p>	
	<p align="center">Amendment 72 Article 1 Point 5 - point d Article 10a - paragraph 6 - subparagraph 1</p>		
<p>(d) the first subparagraph of paragraph 6 is replaced by the following:</p> <p>"Member States should adopt financial measures in favour of sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, taking into account any effects on the internal market. Such financial measures to compensate part of these costs shall be in accordance</p>	<p>6. A centralised arrangement at Union level shall be adopted to compensate sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices.</p> <p>Compensation shall be proportionate to greenhouse gas</p>	<p>"Member States should adopt financial measures in favour of sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices provided such financial measures are in accordance with State aid rules, notably do not cause undue distortions of competition on the</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>with state aid rules. "</p>	<p><i>emission costs actually passed through in electricity prices and shall be applied in accordance with the criteria laid down in the relevant state aid guidelines in order to avoid negative effects on the internal market as well as overcompensation of costs incurred.</i></p> <p><i>Where the amount of compensation available is not sufficient to compensate eligible indirect costs, the amount of compensation available for all eligible installations shall be reduced in a uniform manner.</i></p> <p><i>The Commission is empowered to adopt a delegated act in accordance with Article 30b to supplement this Directive for the purpose referred to in this paragraph by putting in place arrangements for the creation and operation of the fund.</i></p>	<p><u>internal market. Member States shall seek to use no more than 25% of the revenues generated from the auctioning of allowances for such financial measures. Within three months of the end of each year, Member States having such financial measures in place shall make available to the public in an easily accessible form the total amount of compensation provided per benefitting sectors and sub-sectors. Where a Member State uses more than 25% of the revenues generated from the auctioning of allowances for such purposes, it shall publish a report setting out the reasons for exceeding that amount. The report shall include relevant information on power prices for large industrial consumers benefitting from such financial measures, without prejudice to requirements regarding the protection of confidential information. The report shall also include information on whether due consideration has been given to other measures to sustainably lower indirect carbon costs in the medium</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<p>to long term. <u>The Commission shall include in its report pursuant to Article 10(5), inter alia, an assessment of the effects of such financial measures on the internal market and, if appropriate, recommend any measures that may be necessary pursuant to this assessment."</u></p>	
<p>Amendment 73</p> <p>Article 1 Point 5 - point da (new)</p> <p>Article 10a - paragraph 6 - subparagraph 1a (new)</p>			
	<p><i>(da) in paragraph 6, a new subparagraph is inserted:</i></p> <p><i>'Member States may also adopt national financial measures in favour of sectors or sub-sectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, taking into account any effects on the internal market. Such financial measures to compensate part of those costs shall be in accordance with state aid rules and Article 10(3) of</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>this Directive. Those national measures, when combined with the support referred to in the first subparagraph, shall not exceed the maximum level of compensation referred to in the relevant state aid guidelines and shall not create new market distortions. The existing ceilings on state aid compensation shall continue to decline throughout the trading period.'</i></p>		
Amendment 74 Article 1 Point 5 - point e - point i Article 10a - paragraph 7 - subparagraph 1			
<p>(e) paragraph 7 is amended as follows</p> <p>(i) The first and second sentences of the first subparagraph are replaced by the following:</p> <p>"Allowances from the maximum amount referred to Article 10a(5) of this Directive which were not allocated for free up to 2020 shall be set aside for new entrants and significant production increases, together with 250 million allowances placed in the market</p>	<p>7. 400 million allowances shall be set aside for new entrants and significant production increases.</p>	<p>(i) The first [...] subparagraph is replaced by the following:</p> <p>"Allowances from the maximum amount referred to in paragraph 5 of this Article which were not allocated for free up to 2020 shall be set aside for new entrants [...], together with 250 million allowances placed in the market stability reserve pursuant to</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>stability reserve pursuant to Article 1(3) of Decision (EU) 2015/... of the European Parliament and of the Council(*).</p>		<p>Article 1(3) of Decision (EU) 2015/1814 of the European Parliament and of the Council(*).</p>	
<p>Amendment 75 Article 1 Point 5 - point e- point i Article 10a - paragraph 7 - subparagraph 2</p>			
<p>From 2021, allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the reserve."</p>	<p>From 2021 <i>onwards, any</i> allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the reserve.</p>	<p>From 2021, allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the amount of allowances set aside in accordance with the <u>previous sentence</u>.</p>	
<p>_____</p> <p>(*) [insert the full title of the Decision and the OJ reference]."</p>		<p>_____</p> <p>(*) <u>Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, p. 1).</u>"</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
(ii) The fifth subparagraph is deleted.	<p align="center">Article 1 Point 5 - point e- point ii Article 10a - paragraph 7 - subparagraphs 4 and 5</p>	(ii) The <u>fourth and fifth subparagraphs</u> are deleted.	
(f) in paragraph 8, the first, second and third subparagraphs of paragraph 8 are replaced by the following:	<p align="center">Amendment 76 Article 1 Point 5 - point f- introductory part Article 10a - paragraph 8</p>	(f) in paragraph 8, the first, second and third subparagraphs are replaced by the following:	
"400 million allowances shall be available to support innovation in low-carbon technologies and processes in Annex I, and to help stimulate the construction and operation of commercial demonstration projects that aim at the environmentally safe capture and geological storage	<p align="center">Amendment 77 Article 1 Point 5 - point f Article 10a - paragraph 8 - subparagraph 1</p>	<p>"400 million allowances <u>from the quantity which could otherwise be allocated for free pursuant to this Article</u> shall be available to support innovation in low-carbon technologies and processes, <u>including environmentally safe carbon capture and utilisation (CCU)</u> that contributes</p>	<p>8. 600 million allowances shall be available to <i>leverage investments in</i> innovation in low-carbon technologies and processes in industrial sectors listed in Annex I, <i>including bio-based materials and products substituting carbon intensive materials</i>, and to help stimulate the construction and</p>

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(CCS) of CO₂ as well as demonstration projects of innovative renewable energy technologies, in the territory of the Union.</p>	<p>operation of commercial demonstration projects that aim at the environmentally safe <i>CCS and CCU</i> as well as demonstration projects of innovative renewable energy technologies <i>and energy storage</i>, in the territory of the Union.</p>	<p><u>substantially to mitigate climate change, in industrial sectors listed in Annex I, and to help stimulate the construction and operation of [...] projects that aim at the environmentally safe capture and geological storage (CCS) of CO₂ as well as [...] innovative renewable energy and energy storage technologies in geographically balanced locations within the territory of the Union. Projects in all Member States, including small-scale projects, shall be eligible.</u></p>	
<p>Amendment 78 Article 1 Point 5 - point f Article 10a - paragraph 8 - subparagraph 2</p>			
<p>The allowances shall be made available for innovation in low-carbon industrial technologies and processes and support for demonstration projects for the development of a wide range of CCS and innovative renewable energy technologies that are not yet commercially viable in geographically balanced locations.</p>	<p>The allowances shall be made available for innovation in low-carbon industrial technologies and processes and support for demonstration projects for the development of a wide range of innovative renewable energy technologies, <i>CCS and CCU</i> that are not yet commercially viable. <i>Projects shall be selected on the</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>In order to promote innovative projects, up to 60% of the relevant costs of projects may be supported, out of which up to 40% may not be dependent on verified avoidance of greenhouse gas emissions provided that pre-determined milestones are attained taking into account the technology deployed.</p>	<p><i>basis of their impact on energy systems or industrial processes within a Member State, a group of Member States or the Union.</i> In order to promote innovative projects, up to 75% of the relevant costs of projects may be supported, out of which up to 60% may not be dependent on verified avoidance of greenhouse gas emissions provided that pre-determined milestones are attained taking into account the technology deployed. <i>Allowances shall be allocated to projects according to their needs to reach pre-determined milestones.</i></p>		
<p>Amendment 79 Article 1 Point 5 - point f Article 10a - paragraph 8 - subparagraph 3</p>			
<p>In addition, 50 million unallocated allowances from the market stability reserve established by Decision (EU) 2015/... shall supplement any existing resources remaining under this paragraph for projects referred to above, with projects in all Member States including small-scale projects, before 2021. Projects shall be</p>	<p>In addition, 50 million unallocated allowances from the MSR shall supplement any existing resources remaining under this paragraph as a consequence of funds resulting from NER300 allowance auctions for the period between 2013 and 2020 not having been used, for projects referred to in the first and second subparagraphs, with</p>	<p><u>In addition, 50 million unallocated allowances from the market stability reserve established by Decision (EU) 2015/1814 shall supplement any existing resources remaining under this paragraph for projects referred to above [...], before 2021.</u> <u>Projects shall be selected on the basis of objective and transparent</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>selected on the basis of objective and transparent criteria.</p>	<p>projects in all Member States including small-scale projects, before 2021 and from 2018 onwards. Projects shall be selected on the basis of objective and transparent criteria, taking into account their relevance in relation to the decarbonisation of the sectors concerned.</p> <p>Projects supported under this subparagraph may also receive further support under the first and second subparagraphs.</p>	<p><u>criteria. Technologies receiving support shall not yet be commercially available, but sufficiently mature to be ready for demonstration at pre-commercial scale. Up to 60% of the relevant costs of projects may be supported, out of which up to 40% may not be dependent on verified avoidance of greenhouse gas emissions provided that pre-determined milestones, [...] taking into account the technology deployed, are attained.</u></p>	
<p>Amendment 80 Article 1 Point 5 - point f Article 10a - paragraph 8 - subparagraph 4</p>			
<p>The Commission shall be empowered to adopt a delegated act in accordance with Article 23."</p>	<p>The Commission <u>is</u> empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive by setting the criteria to be used for the selection of projects that are eligible to benefit from the allowances referred to in this paragraph, taking due account of the following principles:</p> <p>(i) Projects shall focus on the design and development of</p>	<p>The Commission <u>is</u> empowered to adopt <u>implementing acts</u> [...] concerning detailed rules on the operation of the fund. Those <u>implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a."</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>breakthrough solutions and implementation of demonstration programmes;</i></p> <p><i>(ii) The activities shall run close-to-market in production plants to demonstrate the viability of breakthrough technologies in overcoming technological as well as non-technological barriers;</i></p> <p><i>(iii) Projects shall address technological solutions that have the potential to be of widespread application, and may combine different technologies;</i></p> <p><i>(iv) Solutions and technologies shall ideally have the potential to be transferred within the sector and possibly to other sectors;</i></p> <p><i>(v) Projects where the anticipated emissions reductions are significantly below the relevant benchmark value shall be prioritised. Eligible projects shall either contribute to emissions reductions below the benchmark values referred to in paragraph 2</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>or shall have future prospects to significantly lower the cost of transitioning towards low-emissions energy production; and</i></p> <p><i>(vi) CCU projects shall deliver a net reduction in emissions and a permanent storage of CO2 across their lifetime.</i></p>		
	<p>Article 1 Point 5 - point fa (new) Article 10a - paragraph 9 (new)</p>		
		<p><u>(fa) paragraph 9 is replaced by the following:</u></p> <p><u>"9. Greece, which had a GDP per capita below 60% of the Union average in 2014, may claim, prior to the application of paragraph 7 of this Article, allowances from the maximum amount referred to in paragraph 5 of this Article which were not allocated for free by 31 December 2020, up to 20 million allowances for co-financing up to 60% of decarbonising the electricity supply of islands within its territory. Article 10d(2) shall apply mutatis mutandis to such allowances. Allowances may be claimed where due to restricted</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<u>access to the international debt markets, a project aiming at the decarbonisation of the electricity supply of the countries' islands could otherwise not be realised and where the EIB confirms the financial viability and the socio-economic benefits of the project."</u>	
<p>(g) paragraphs 9 and 10 are deleted.</p> <p>(h) in paragraph 11, the wording "with a view to reaching no free allocation in 2027" is deleted.</p> <p>(i) paragraphs 12 to 18 are deleted.</p>	<p>Article 1 Point 5 - point g Article 10a - paragraph 9 and 10</p>	<p>(g) paragraph [...] 10 <u>is</u> deleted.</p>	
	<p>Amendment 82 Article 1 Point 5 - point ia (new) Article 10a - paragraph 20</p> <p><i>(ia) paragraph 20 is replaced by the following:</i></p> <p>"20. The Commission shall, as part of the measures adopted under paragraph 1, include measures for defining installations that partially cease to operate or significantly reduce their capacity, and measures</p>	<p>(j) <u>paragraph 20 is replaced by the following:</u></p> <p><u>"20. [...] The level of free allocations given to installations whose operations have increased or decreased by more than 15% compared to the level initially used to determine the free allocation for</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>for adapting, as appropriate, the level of free allocations given to them accordingly. <i>Those measures shall provide flexibility for industry sectors where capacity is regularly transferred between operating installations in the same company.'</i></p>	<p><u>the relevant period referred to in Article 11(1) shall, as appropriate, be adjusted. Such adaptations shall be carried out with allowances from, or by adding allowances to, the amount of allowances set aside in accordance with paragraph 7."</u></p>	
	<p>Article 1 Point 5 - point k (new) Article 10a - paragraph 21</p>		
		<p><u>(k) the following paragraph is added:</u> <u>"21. In order to ensure an effective, non-discriminatory and uniform application of the adaptations and the threshold referred to in paragraph 20 and to avoid undue administrative burden, the Commission may adopt implementing acts which define further arrangements for the adjustments. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a."</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(6) Articles 10b and 10c are replaced by the following:</p> <p><i>"Article 10b</i></p> <p>Measures to support certain energy-intensive industries in the event of carbon leakage</p>	<p><i>"Article 10b</i></p> <p>Transitional measures to support certain energy intensive industries in the event of carbon leakage</p>	<p>Amendment 83 Article 1 Point 6 Article 10b - title</p>	
<p>1. Sectors and sub-sectors where the product exceeds 0.2 from multiplying their intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries), by their emission intensity, measured in kgCO₂ divided by their gross value added (in €), shall be deemed to be</p>	<p>Article 1 Point 6 Article 10b - paragraph 1</p>	<p>1. Sectors and sub-sectors where the product exceeds 0,2 from multiplying their intensity of trade with third countries, defined as the ratio between the total value of exports to third countries plus the value of imports from third countries and the total market size for the European Economic Area (annual turnover plus total imports from third countries), by their emission intensity, measured in kgCO₂ divided by their gross value added (in <u>euro</u>), shall be deemed to</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>at risk of carbon leakage. Such sectors and sub-sectors shall be allocated allowances free of charge for the period up to 2030 at 100% of the quantity determined in accordance with the measures adopted pursuant to Article 10a.</p>		<p>be at risk of carbon leakage. Such sectors and sub-sectors shall be allocated allowances free of charge for the period up to 2030 at 100% of the quantity determined [...] pursuant to Article 10a.</p>	
	<p>Amendment 85 Article 1 Point 6 Article 10b - paragraph 1a (new)</p>		
	<p><i>(1a) After the adoption of the revision of the Directive 2012/27/EU of the European Parliament and of the Council*, the Commission shall reassess the share of emission reductions in the EU ETS and the Decision No 406/2009/EC of the European Parliament and of the Council**. Additional reductions by an increased energy efficiency target shall be used to protect industry at risk of carbon or investment leakage.</i></p> <p><i>* Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>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).</i></p> <p>** Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (OJ L 140, 5.6.2009, p. 136).</p>		
	<p>Amendment 144 Article 1 Point 6</p> <p>Article 10b - paragraphs 1b and 1 c (new)</p>		
	<p><i>(1b) Following up to Article 6(2) of the Paris Agreement, the Commission shall assess in its report, to be prepared in accordance with Article 28aa, the development of climate mitigation policies, including market-based approaches, in third countries and regions and the effect of these policies on the competitiveness of European industry.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>(1c) If this report concludes that a significant risk of carbon leakage remains, the Commission shall, if appropriate, come forward with a legislative proposal introducing a carbon border adjustment, fully compatible with WTO rules, based on a feasibility study to be initiated at the publication of this Directive in the OJ. This mechanism would include in the EU ETS importers of products which are produced by the sectors or sub-sectors determined in accordance with Article 10a.</i></p>		
<p>Amendment 86 Article 1 Point 6 Article 10b - paragraph 2</p>			
<p>2. Sectors and sub-sectors where the product from multiplying their intensity of trade with third countries by their emission intensity is above 0.18 may be included in the group referred to in paragraph 1, on the basis of a qualitative assessment using the following criteria:</p> <p>(a) the extent to which it is</p>	<p>2. Sectors and sub-sectors where the product from multiplying their intensity of trade with third countries by their emission intensity is above 0,12 may be included in the group referred to in paragraph 1, on the basis of a qualitative assessment using the following criteria:</p> <p>(a) the extent to which it is</p>	<p>2. Sectors and sub-sectors where the product from multiplying their intensity of trade with third countries by their emission intensity is above <u>0,16</u> may be included in the group referred to in paragraph 1, on the basis of a qualitative assessment using the following criteria:</p> <p>(a) the extent to which it is</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>possible for individual installations in the sector or sub-sectors concerned to reduce emission levels or electricity consumption;</p> <p>(b) current and projected market characteristics;</p> <p>(c) profit margins as a potential indicator of long-run investment or relocation decisions.</p>	<p>possible for individual installations in the sector or sub- sectors concerned to reduce emission levels or electricity consumption <i>taking into account associated increases in costs of production</i>;</p> <p>(b) current and projected market characteristics;</p> <p>(c) profit margins as a potential indicator of long-run investment or relocation decisions;</p> <p><i>(ca) commodities which are traded on worldwide markets for a common reference price.</i></p>	<p>possible for individual installations in the sector or sub-sectors concerned to reduce emission levels or electricity consumption;</p> <p>(b) current and projected market characteristics;</p> <p>(c) profit margins as a potential indicator of long-run investment or relocation decisions.</p>	
<p>Article 1 Point 6 Article 10b - point 2a (new)</p>			
		<p>2a. Sectors and sub-sectors that do not exceed the threshold referred to in paragraph 1, but with an emission intensity as a proportion of the gross value added which exceeds 1,5, shall also be assessed at a 4-digit level (NACE-4 code). The Commission shall make the results of this assessment public.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<p><u>Within three months from the publication referred to in the previous subparagraph, those sectors and sub-sectors may apply to the Commission for either a qualitative assessment of their carbon leakage exposure at a 4-digit level (NACE-4 code) or an assessment on the basis of the classification of goods used for statistics on industrial production in the Union at an 8-digit level (Prodcom). To this end, a sector and subsector shall submit duly substantiated, complete and independently verified data to enable the Commission to carry out the assessment together with the application.</u></p> <p><u>Where a sector or subsector chooses to be assessed at a 4-digit level (NACE-4 code), it may be included in the group referred to in paragraph 1 on the basis of the criteria referred to in paragraph 2, points (a), (b) and (c). Where a sector or subsector chooses to be assessed at an 8-digit level (Prodcom), it shall be included in</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<p><u>the group referred to in paragraph 1 where, at this level, the threshold of 0,2 referred to in paragraph 1 is exceeded.</u></p> <p><u>Sectors and subsectors for which free allocation is calculated on the basis of the benchmark values referred to in the fourth subparagraph of Article 10a(2) may also request to be assessed in accordance with the third subparagraph of this paragraph.</u></p> <p><u>By way of derogation from paragraphs 1 and 2, a Member State may request by 30 June 2018 that a sector or sub-sector listed in the Annex to Commission Decision 2014/746/EU in respect of classifications at a 6-digit or an 8-digit level (Prodcom) be considered to be included in the group referred to in paragraph 1.</u></p> <p><u>Any such request shall only be considered where the requesting Member State establishes that the application of this derogation is justified on the basis of duly substantiated, complete, verified and audited data for the five most</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<p><u>recent years provided by the sector or sub-sector concerned and includes all relevant information with its request. On the basis of this data, the sector or sub-sector concerned shall be included in respect of those classifications where, within a heterogeneous NACE-4 code, it is shown they have a substantially higher trade and emission intensity at Prodcom level, exceeding the threshold set in paragraph 1.</u></p>	
	<p>Amendment 87 Article 1 Point 6 Article 10b - paragraph 3</p>		
<p>3. Other sectors and sub-sectors are considered to be able to pass on more of the cost of allowances in product prices, and shall be allocated allowances free of charge for the period up to 2030 at 30% of the quantity determined in accordance with the measures adopted pursuant to Article 10a.</p>	<p>3. <i>The district heating sector is</i> considered to be able to pass on more of the cost of allowances in product prices, and shall be allocated allowances free of charge for the period up to 2030 at 30% of the quantity determined in accordance with the measures adopted pursuant to Article 10a. <i>Other sectors and sub-sectors shall not be allocated any allowances free of charge.</i></p>	<p>3. Other sectors and sub-sectors are considered to be able to pass on more of the cost of allowances in product prices, and shall be allocated allowances free of charge for the period up to 2030 at 30% of the quantity determined [...] pursuant to Article 10a.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>4. By 31 December 2019, the Commission shall adopt a delegated act for the preceding paragraphs for activities at a 4-digit level (NACE-4 code) as concerns paragraph 1, in accordance with Article 23, based on data for the three most recent calendar years available.</p>	<p>4. By 31 December 2019, the Commission shall adopt delegated <i>acts in accordance with Article 30b to supplement this Directive in relation to paragraph 1 concerning the activities at a 4-digit level (NACE-4 code) or, where justified on the basis of objective criteria developed by the Commission, at the relevant level of disaggregation based on public and sector-specific data to comprise those activities covered by the EU ETS. The assessment of trade intensity shall be based on data for the five most recent calendar years available.</i></p>	<p>Amendment 88 Article 1 Point 6 Article 10b - paragraph 4</p> <p>4. By 31 December 2019, the Commission shall <u>be empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the determination of sectors and subsectors deemed at risk of carbon leakage, as referred to in paragraphs 1, 2 and 2a, for activities at a 4-digit level (NACE-4 code) as concerns paragraph 1, based on data for the three most recent calendar years available [...].</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p><i>Article 10c</i></p> <p>Option for transitional free allocation for the modernisation of the energy sector</p> <p>1. By derogation from Article 10a(1) to (5), Member States which had in 2013 a GDP per capita in € at market prices below 60% of the Union average may give a transitional free allocation to installations for electricity production for the modernisation of the energy sector.</p>	<p>Amendment 89 Article 1 - Point 6 Article 10c - paragraph 1</p> <p>1. By <i>way of</i> derogation from Article 10a(1) to (5), Member States which had in 2013 a GDP per capita in EUR at market prices below 60% of the Union average may give transitional free allocation to installations for the electricity generation for the modernisation, diversification and sustainable transformation of the energy sector. <i>This derogation shall end on 31 December 2030.</i></p>	<p>1. By derogation from Article 10a(1) to (5), Member States which had in 2013 a <u>gross domestic product (GDP)</u> per capita in <u>euro</u> at market prices below 60% of the Union average may give a transitional free allocation to installations for electricity <u>generation</u> for the modernisation of the energy sector.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>2. The Member State concerned shall organise a competitive bidding process for projects with a total amount of investment exceeding €10 million to select the investments to be financed with free allocation. This competitive bidding process shall:</p> <p>(a) comply with the principles of transparency, non-discrimination, equal treatment and sound financial management;</p>	<p>Article 1 - Point 6 Article 10c - paragraph 2</p>	<p>2. The Member State concerned shall organise a competitive bidding process, to take place in one or more rounds between 2021 and 2030, for projects with a total amount of investment exceeding EUR 15 million to select the investments to be financed with free allocation. This competitive bidding process shall:</p> <p>(a) comply with the principles of transparency, non-discrimination, equal treatment and sound financial management;</p>	
	<p>Amendment 90 Article 1 - Point 6 Article 10c - paragraph 1 a (new)</p> <p><i>1a. Member States not eligible pursuant to paragraph 1 but which had in 2014 a GDP per capita in EUR at market prices below 60% of the Union average may also make use of the derogation referred to in that paragraph up to the total quantity referred to in paragraph 4, provided that the</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>corresponding number of allowances is transferred to the Modernisation Fund and the revenues are used to support investments in accordance with Article 10d.</i></p>		
	<p>Amendment 91 Article 1 - Point 6 Article 10c - paragraph 1 b (new)</p>		
	<p><i>1b. Member States which are eligible under this Article to grant free allocation to installations for energy generation, may choose to transfer the corresponding number of allowances or part of them to the Modernisation Fund and allocate them pursuant to the provisions of Article 10d. In such a case, they shall inform the Commission before the transfer.</i></p>		
<p>(b) ensure that only projects which contribute to the diversification of their energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure,</p>	<p>(b) ensure that only projects which contribute to the diversification of their energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure,</p>	<p>(b) ensure that only projects which contribute to the diversification of their energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure,</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
clean technologies and modernisation of the energy production, transmission and distribution sectors are eligible to bid;	clean technologies (<i>such as renewable technologies</i>) or modernisation of the energy production, <i>district heating networks, energy efficiency, energy storage</i> , transmission and distribution sectors are eligible to bid;	clean technologies <u>or</u> modernisation of the energy production, transmission and distribution sectors are eligible to bid;	
Amendment 93 Article 1 - Point 6			
Article 10c - paragraph 2 - subparagraph 1 - point c			
(c) define clear, objective, transparent and non-discriminatory selection criteria for the ranking of projects, so as to ensure that projects are selected which:	(c) define clear, objective, transparent and non-discriminatory selection criteria <i>in line with the Union 2050 climate and energy policy objectives</i> for the ranking of projects, so as to ensure that projects are selected which:		
Amendment 94 Article 1 - Point 6			
Article 10c - paragraph 2 - subparagraph 1 - point c - point i			
(i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of emission reduction and realise a pre-determined significant level of CO ₂ reductions;	(i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of emission reduction and realise a pre- determined significant level of CO ₂ reductions <i>proportionate to the size of the projects. Where projects relate to</i>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>electricity production, total greenhouse gas emissions per kilowatt hour of electricity produced in the installation shall not exceed 450g of CO2 equivalent after completion of the project. By 1 January 2021, the Commission shall adopt a delegated act in accordance with Article 30b in order to amend this Directive by defining for projects relating to heat production maximum total greenhouse gas emissions per kilowatt hour of heat produced in the installation that shall not be exceeded.</i></p>		
<p>(ii) are additional, clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand;</p> <p>(iii) offer best value for money;</p>	<p>Amendment 95 Article 1 - Point 6</p> <p>Article 10c - paragraph 2 - subparagraph 1 - point c - point ii</p> <p>(ii) are additional, <i>although they may be used to meet the relevant targets set under the 2030 Climate and Energy Framework</i>, clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand;</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>Article 1 - Point 6 Article 10c - paragraph 2 - subparagraph 2</p>	<p>By way of derogation from Article 10(1), in the event an <u>investment selected through the competitive bidding process is cancelled or the intended performance is not reached, the earmarked allowances may be used through one new round of the competitive bidding process at the earliest one year thereafter to finance other investments.</u></p>	
	<p>Amendment 96 Article 1 - Point 6 Article 10c - paragraph 2 - subparagraph 1 - point c - point iii a (new) <i>(iia) do not contribute to new coal-fired energy generation nor increase coal- dependency.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Amendment 97 Article 1 - Point 6 Article 10c - paragraph 2 - subparagraph 2			
<p>By 30 June 2019, any Member State intending to make use of optional free allocation shall publish a detailed national framework setting out the competitive bidding process and selection criteria for public comment.</p>	<p>By 30 June 2019, any Member State intending to make use of optional <i>transitional</i> free allocation <i>for the modernisation of the energy sector</i> shall publish a detailed national framework setting out the competitive bidding process and selection criteria for public comment.</p>		
Amendment 98 Article 1 - Point 6 Article 10c - paragraph 2 - subparagraph 3			
<p>Where investments with a value of less than €10 million are supported with free allocation, the Member State shall select projects based on objective and transparent criteria. The results of this selection process shall be published for public comment. On this basis, the Member State concerned shall establish and submit a list of investments to the Commission by 30 June 2019.</p>	<p>Where investments with a value of less than EUR 10 million are supported with free allocation, the Member State shall select projects based on objective and transparent criteria consistent with reaching the Union's long-term climate and energy objectives. Those criteria shall be subject to public consultation, ensuring full transparency and accessibility of relevant documents, and fully reflect comments raised by</p>	<p>Where investments with a value of less than <u>EUR 15 million to be supported with free allocation are not selected through the competitive bidding process referred to in this paragraph</u>, the Member State shall select projects based on objective and transparent criteria. The results of this selection process shall be published for public comment. On this basis, the Member State concerned shall establish and submit a list of</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>stakeholders</i>. The results of this selection process shall be published for public <i>consultation</i>. On this basis, the Member State concerned shall establish and submit a list of investments to the Commission by 30 June 2019.</p>	<p>investments to the Commission by 30 June 2019.</p>	
<p>Amendment 99 Article 1 - Point 6 Article 10c - paragraph 3</p>			
<p>3. The value of the intended investments shall at least equal the market value of the free allocation, while taking into account the need to limit directly linked price increases. The market value shall be the average of the price of allowances on the common auction platform in the preceding calendar year.</p>	<p>3. The value of the intended investments shall at least equal the market value of the free allocation, while taking into account the need to limit directly linked price increases. The market value shall be the average of the price of allowances on the common auction platform in the preceding calendar year. <i>Up to 75% of the relevant costs of an investment may be supported.</i></p>		
<p>Article 1 - Point 6 Article 10c - paragraph 4</p>			
<p>4. Transitional free allocations shall be deducted from the quantity of allowances that the Member State would otherwise auction. The total free allocation shall be no more</p>		<p>4. Transitional free allocations shall be deducted from the quantity of allowances that the Member State would otherwise auction. The total free allocation shall be no more</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>than 40% of the allowances which the Member State concerned receives in the period 2021-30 pursuant to Article 10(2)(a) spread out in equal annual volumes over the period from 2021-30.</p> <p>5. Allocations to operators shall be made upon demonstration that an investment selected according to the rules of the competitive bidding process has been carried out.</p>		<p>than 40% of the allowances which the Member State concerned receives in the period 2021-2030 pursuant to Article 10(2)(a) spread out in equal annual volumes over the period from 2021-2030. <u>Any allowances not allocated under this Article up to 2020 may be allocated over to the period 2021-2030 to investments selected through the competitive bidding process referred to in paragraph 2 of this Article.</u></p>	
Amendment 100 Article 1 - Point 6 Article 10c - paragraph 6			
<p>6. Member States shall require benefiting electricity generators and network operators to report by 28 February of each year on the implementation of their selected investments. Member States shall report on this to the Commission,</p>	<p>6. Member States shall require benefiting <i>energy</i> generators and network operators to report annually by 31 March of each year on the implementation of their selected investments, <i>including the balance of free allocation and</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
and the Commission shall make such reports public."	<p><i>investment expenditure incurred, the types of investments supported and the way in which they achieved the goals set out in point (b) of the first subparagraph of paragraph 2.</i> Member States shall report on this to the Commission, and the Commission shall make such reports <i>available to the public.</i></p> <p><i>Member States and the Commission shall monitor and analyse potential arbitrage with regard to the threshold of EUR 10 million for small projects and shall prevent unjustified dividing up of an investment over smaller projects by excluding more than one investment in the same beneficiary installation.</i></p>		
	<p>Amendment 101 Article 1 - point 6 Article 10c - paragraph 6a (new)</p>		
	<p><i>6a. In case of a reasonable suspicion of irregularities or a failure by a Member State to report in accordance with paragraphs 2 to 6, the Commission may undertake an independent investigation, where necessary</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>assisted by a contracted third party. The Commission shall also investigate other possible infringements, such as failure to implement the Third Energy Package. The Member State concerned shall provide all investment information and access necessary for the investigation, including access to installations and building sites. The Commission shall publish a report on that investigation.</i></p>		
	<p>Amendment 102 Article 1 - point 6 Article 10c - paragraph 6b (new)</p>		
	<p>6b. In the case of infringement of Union climate and energy law, including the Third Energy Package, or the criteria set out in this Article, the Commission may require the Member State to withhold free allocation.</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(7) The following Article 10d is inserted:</p> <p><i>"Article 10d</i></p> <p>Modernisation Fund</p>	<p>Article 1 - Point 7 Article 10d</p>	<p>(7) The following Article is inserted:</p>	
<p>1. A fund to support investments in modernising energy systems and improving energy efficiency in Member States with a GDP per capita below 60% of the Union average in 2013 shall be established for the period 2021-30 and financed as set out in Article 10.</p>	<p>Amendment 149 Article 1 - point 7 Article 10d - paragraph 1</p> <p>1. A fund to support <i>and leverage</i> investments in modernising energy systems, <i>including district heating</i>, and improving energy efficiency in Member States with a GDP per capita below 60% of the Union average in 2013, <i>or in 2014</i>, <i>or in 2015</i>, shall be established for the period 2021-2030 and financed as set out in Article 10.</p>	<p>1. A fund to support investments proposed by the beneficiary <u>Member States, including to finance small-scale investment projects</u>, in modernising energy systems and improving energy efficiency in Member States with a GDP per capita below 60% of the Union average in 2013 shall be established for the period 2021-2030. The fund shall be financed through the <u>auctioning of allowances</u> as set out in Article 10.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>The investments supported shall be consistent with the aims of this Directive and the European Fund for Strategic Investments.</p>	<p>Amendment 104 Article 1 - Point 7 Article 10d - paragraph 1 - subparagraph 2</p> <p>The investments supported shall <i>comply with the principles of transparency, non-discrimination, equal treatment and sound financial management and shall offer the best value for money. They shall be consistent with the aims of this Directive, the Union's long term climate and energy goals</i> and the European Fund for Strategic Investments, <i>and shall:</i></p> <p><i>(i) Contribute to energy savings, renewable energy systems, energy storage and electricity interconnection, transmission and distribution sectors; where projects relate to electricity production, total greenhouse gas emissions per kilowatt hour of electricity produced in the installation shall not exceed 450g of CO2 equivalent after completion of the project. The Commission shall adopt a delegated act in accordance with Article 30b by 1 January 2021 in</i></p>	<p>The investments supported shall be consistent with the aims of this Directive, as well as the objectives of the Union's 2030 climate and energy policy framework and the long-term objectives as expressed in the Paris Agreement.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>order to amend this Directive by defining, for projects relating to heat production, maximum total greenhouse gas emissions per kilowatt hour of heat produced in the installation that shall not be exceeded;</i></p> <p><i>(ii) On the basis of a cost-benefit analysis, ensure a net-positive gain in terms of emissions reductions and realise a pre-determined significant level of CO2 reductions;</i></p> <p><i>(iii) Be additional although they may be used to meet the relevant targets set under the 2030 Climate and Energy Framework, clearly respond to replacement and modernisation needs and shall not supply a market-driven increase in energy demand;</i></p> <p><i>(iv) Not contribute to new coal-fired energy generation nor increase coal dependency.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>Article 1 - Point 7</p> <p>Article 10d - paragraph 1 - subparagraph 1a (new)</p>	<p>1a. <u>Without prejudice to the third subparagraph of paragraph 4, the financial resources from the fund shall [...] be used to support investments in the generation and use of electricity from renewable sources, the improvement of energy efficiency, and the modernisation of energy networks, including grids for electricity transmission and the increase of interconnections between Member States. Investments in energy efficiency in sectors not covered by Annex I to this Directive shall also be eligible. [...]</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p data-bbox="244 1122 347 1608">Amendment 105 Article 1 - Point 7 Article 10d - paragraph 1 - subparagraph 2a (new)</p> <p data-bbox="395 1122 898 1608"><i>The Commission shall keep under review the requirements set out in this paragraph taking into account the Climate Strategy of the EIB. If, on the basis of technological progress, one or more of the requirements set out in this paragraph become irrelevant, the Commission shall adopt a delegated act in accordance with Article 30b by 2024 in order to amend this Directive by outlining new or updated requirements.</i></p>		
<p data-bbox="1042 1608 1356 2096">2. The fund shall also finance small-scale investment projects in the modernisation of energy systems and energy efficiency. To this end, the investment board shall develop guidelines and investment selection criteria specific to such projects.</p>	<p data-bbox="914 1122 1018 1608">Amendment 106 Article 1 - Point 7 Article 10d - paragraph 2</p> <p data-bbox="1042 1122 1356 1608">2. The fund shall also finance small-scale investment projects in the modernisation of energy systems and energy efficiency. To this end, <i>its</i> investment board shall develop <i>investment</i> guidelines and selection criteria specific to such projects <i>in line with the objectives of this Directive and with the</i></p>	<p data-bbox="1042 633 1356 1122">2. <u>The fund shall operate under the responsibility of the beneficiary Member States. The European Investment Bank (EIB) shall ensure the allowances are auctioned in accordance with the principles and modalities laid down in Article 10(4) and shall be responsible for managing the revenues. It shall</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>criteria set out in paragraph 1. Those guidelines and selection criteria shall be made available to the public.</i></p> <p><i>For the purpose of this paragraph a small-scale investment project means a project funded through loans provided by a national promotional bank or through grants contributing to the implementation of a national programme serving specific objectives that are in line with those of the Modernisation Fund, provided that not more than 10% of the Member States' share set out in Annex IIb is used.</i></p>	<p><u>pass on the revenues to the Member States upon a disbursement decision from the Commission. The Commission shall adopt its decision in a timely manner. The revenues shall be distributed amongst the Member States and according to the share set out in Annex IIb, in accordance with paragraphs 4 to 9.</u></p>	
<p>3. The funds shall be distributed based on a combination of a 50% share of verified emissions and a 50% share of GDP criteria, leading to the distribution set out in Annex IIb.</p>	<p>Article 1 - Point 7 Article 10d - paragraph 3</p>	<p>3. <u>An investment committee for the fund is hereby established. The investment committee shall be composed of a representative from each beneficiary Member State, the Commission and the EIB, and three representatives elected by the other Member States for a period of 5 years. It shall be chaired by the</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		<u>representative from the Commission. One representative of each Member State which is not a member of the investment committee may attend meetings of the committee as an observer.</u>	
	Amendment 107 Article 1 - Point 7 Article 10d - paragraph 3 a (new)		
	<i>3a. Any beneficiary Member State which has decided to grant transitional free allocation pursuant to Article 10c may transfer those allowances to its share of the Modernisation Fund set out in Annex IIb and allocate them pursuant to the provisions of Article 10d.</i>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>4. The fund shall be governed by an investment board and a management committee, which shall be composed of representatives from the beneficiary Member States, the Commission, the EIB and three representatives elected by the other Member States for a period of 5 years. The investment board shall be responsible to determine an Union-level investment policy, appropriate financing instruments and investment selection criteria. The management committee shall be responsible for the day-to-day management of the fund.</p>	<p>4. The beneficiary Member States shall be responsible for the governance of the fund, and shall jointly establish an investment board composed of one representative per beneficiary Member State, the Commission, the EIB, and three observers from interested parties such as industrial federations, trade unions, or NGOs. The investment board shall be responsible for determining a Union-level investment policy, which shall be in line with the requirements set out in this Article and be consistent with Union policies.</p> <p>An advisory board, independent from the investment board, shall be established.</p> <p>The advisory board shall be composed of three representatives from the beneficiary Member States, three representatives from non-beneficiary Member States, a representative of the Commission,</p>	<p>Amendment 108 Article 1 - Point 7 Article 10d - subparagraph 1</p> <p>4. <u>Before a beneficiary Member State may decide to finance an investment from its share in the fund, it shall present the investment project to the investment committee and to the EIB.</u></p> <p><u>Where the EIB confirms that an investment falls into the areas listed in paragraph 1a, the Member State may proceed to the financing of the investment project from its share.</u></p> <p><u>Where an investment in the modernisation of energy systems, which is proposed to be financed from the fund, does not fall into the areas [...] listed in paragraph 1a [...], the investment committee shall assess the technical and financial viability of such investments, including the emission reductions they realise, and issue a recommendation on financing the investment from the fund. This recommendation may include suggestions regarding appropriate financing instruments.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>a representative of the EIB, and a representative from the European Bank for Reconstruction and Development (EBRD), selected for a five year period. The representatives of the advisory board shall have a high level of relevant market experience in project structuring and project financing. The advisory board shall provide advice and recommendations to the investment board on project eligibility for selection, investment and financing decisions, and any further project development assistance as required.</i></p> <p><i>A management committee shall be established. The management committee shall be responsible for the day-to-day management of the fund.</i></p>		
<p>The investment board shall elect a representative from the Commission as chairman. The</p>	<p>Amendment 109 Article 1- Point 7</p> <p>Article 10d - paragraph 4 - subparagraph 2</p> <p>The <i>chairman of the</i> investment board shall <i>be elected from among its members for a one-year term.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>investment board shall strive to take decisions by consensus. If the investment board is not able to decide by consensus within a deadline set by the chairman, the investment board shall take a decision by simple majority.</p>	<p>The investment board shall strive to take decisions by consensus. <i>The advisory board shall adopt its opinion</i> by simple majority.</p>		
<p>Amendment 110 Article 1- Point 7 Article 10d - paragraph 4 - subparagraph 3</p>			
<p>The management committee shall be composed of representatives appointed by the investment board. Decisions of the management committee shall be taken by simple majority.</p>	<p><i>The investment board, advisory board and management committee shall operate in an open and transparent manner. The minutes of both board meetings shall be published. The composition of the investment board and advisory board shall be published and CVs and declarations of interests of the members shall be made available to the public and regularly updated. The investment board and the advisory board shall, on an ongoing basis, check for the absence of any conflict of interest. The advisory board shall submit every six months to the European Parliament, the Council and the Commission a list of advice provided to projects.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>If the EIB recommends not financing an investment and provides reasons for this recommendation, a decision shall only be adopted if a majority of two-thirds of all members vote in favour. The Member State in which the investment will take place and the EIB shall not be entitled to cast a vote in this case. For small projects funded through loans provided by a national promotional bank or through grants contributing to the implementation of a national programme serving specific objectives in line with the objectives of the Modernisation Fund, provided that not more than 10% of the Member States' share set out in Annex IIb is used under the programme, the two preceding sentences shall not apply.</p>	<p>If the EIB recommends <i>to the advisory board not to finance</i> an investment and provides reasons <i>why it is not in line with the investment policy adopted by the investment board and the selection criteria set out in paragraph 1, a positive opinion</i> shall only be adopted if a majority of two-thirds of all members vote in favour. The Member State in which the investment will take place and the EIB shall not be entitled to cast a vote in this case.</p>	<p>Amendment 111 Article 1 - Point 7 Article 10d - paragraph 4 - subparagraph 4</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>5. The beneficiary Member States shall report annually to the management committee on investments financed by the fund. The report shall be made public and include:</p> <p>(a) information on the investments financed per beneficiary Member State;</p> <p>(b) an assessment of the added value in terms of energy efficiency or modernisation of the energy system achieved through the investment;</p>	<p>5. The beneficiary Member States shall report annually to the <i>investment board and advisory board</i> on investments financed by the fund. The report shall be made <i>available to the</i> public and include:</p>	<p>Amendment 112 Article 1 - Point 7 Article 10d - paragraph 5 - introductory part</p> <p>5. The investment committee shall strive to adopt its recommendations by consensus. If the investment committee is not able to decide by consensus within a deadline set by the chairman, it shall take a decision by simple majority. [...]</p> <p>If the <u>representative of the EIB does not endorse financing an investment, a recommendation [...]</u> shall only be adopted if a majority of two-thirds of all members vote in favour. [...] The <u>representative of the Member State in which the investment will take place and the representative of the EIB</u> shall not be entitled to cast a vote in this case. <u>This subparagraph shall not apply for small-scale projects funded through loans provided by a national promotional bank or through grants contributing to the implementation of a national programme serving specific objectives in line with the objectives of the Modernisation</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		Fund, provided that not more than 10% of the Member States' share set out in Annex IIb is used under the programme [...].	
	<p>Article 1 - Point 7 Article 10d - subparagraph 5a (new)</p>	<p><u>5a. Any acts or recommendations by the EIB or the investment committee pursuant to paragraphs 4 and 5 shall be made in a timely manner and [...] state the reasons on which they are based. Such acts and recommendations shall be made public.[...]</u></p>	
<p>6. Each year, the management committee shall report to the Commission on experience with the evaluation and selection of investments. The Commission shall review the basis on which projects are selected by 31 December 2024 and, where appropriate, make proposals to the management committee.</p>	<p>Amendment 113 Article 1 - Point 7 Article 10d - paragraph 6</p> <p>6. Each year, the <i>advisory board</i> shall report to the Commission on experience with the evaluation and selection of investments. The Commission shall review the basis on which projects are selected by 31 December 2024 and, where appropriate, make proposals to the <i>investment board and the advisory board</i>.</p>	<p>6. The beneficiary Member States shall be responsible for <u>following up on the implementation with respect to selected projects.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>7. The Commission shall be empowered to adopt a delegated act in accordance with Article 23 to implement this Article."</p>	<p>Amendment 114 Article 1 - Point 7 Article 10d - paragraph 7</p> <p>7. The Commission is empowered to adopt delegated <i>acts</i> in accordance with Article 30b to <i>supplement this Directive by laying down detailed arrangements for the effective functioning of the Modernisation Fund.</i></p>	<p>7. The beneficiary Member States shall report annually to the Commission on investments financed by the fund. The report shall be made public and include:</p> <p>(a) information on the investments financed per beneficiary Member State;</p> <p>(b) an assessment of the added value in terms of energy efficiency or modernisation of the energy system achieved through the investment.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Article 1 - Points 8 and 9 (new) Article 10d</p>	<p>8. The <u>investment committee shall report annually to the Commission on experience with the evaluation [...] of investments. By 31 December 2024, taking into consideration the findings of the investment committee, the Commission shall review the areas for [...] projects referred to in paragraph 1a and the basis on which the investment committee bases its recommendations [...].</u></p> <p>9. The Commission <u>is empowered to adopt implementing acts [...]</u> concerning detailed rules on the operation of the fund. <u>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a."</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(8) In Article 11(1), the following second subparagraph is added:</p> <p>"A list of installations covered by this Directive for the five years beginning on 1 January 2021 shall be submitted by 30 September 2018, and lists for the subsequent 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."</p>	<p>Article 1 - Point 8 Article 11 - paragraph 1 - subparagraph 2</p>	<p>(8) In Article 11(1), the following [...] subparagraph is added:</p> <p>"A list of installations covered by this Directive for the five years beginning on 1 January 2021 shall be submitted by [30 September 2018]⁹, and lists for the subsequent 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."</p> <p>⁹ <u>The date should be decided at a later stage taking account of the time of final approval of the draft Directive.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Amendment 115 Article 1 - Point 8 a (new) Article 11 - paragraph 1 - subparagraph 2 a (new)</p> <p><i>(8a) In Article 11(1) the following subparagraph is added: 'From 2021 onwards, Member States shall also ensure that during each calendar year every operator reports production activity for adjustments to allocation in accordance with Article 10a paragraph 7.'</i></p>		
	<p align="center">Amendment 116 Article 1 - Point 8 b (new) Article 11 - paragraph 3a (new)</p> <p><i>(8b) In Article 11, the following paragraph is added: '3a. In case of a reasonable suspicion of irregularities or a failure by a Member State to provide the list and the information set out in paragraphs 1 to 3, the Commission may start an independent investigation, where necessary assisted by a contracted third party. The</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>Member State concerned shall provide all information and access necessary for the investigation, including access to installations and production data. The Commission shall respect the same confidentiality on commercially sensitive information as the Member State concerned and shall publish a report on that investigation.'</i></p>		
(9) In Article 11a, paragraphs 8 and 9 are deleted.			
(10) In Article 11b, paragraph 7 is deleted.			

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>Amendment 117 Article 1 - Point 10 a (new) Article 12 - paragraph 3a</p> <p>(10a) In Article 12, paragraph 3a is replaced by the following: '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 dioxide¹, <i>nor in respect of emissions verified as captured and/or re-used in an application ensuring a permanent bound of the CO₂, for the purpose of carbon capture and re-use.</i>'</p>		
<p>(11) Article 13 is replaced by the following: "Article 13 Validity of allowances Allowances issued from 1 January 2013 onwards shall be valid</p>			

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>indefinitely. Allowances issued from 1 January 2021 onwards shall include an indication showing in which ten-year period beginning from 1 January 2021 they were issued, and be valid for emissions from the first year of that period onwards."</p>	<p>Amendment 118 Article 1 - point 12 Article 14 - paragraph 1</p>		
<p>(12) In Article 14(1), the second subparagraph is replaced by the following:</p> <p>"The Commission shall be empowered to adopt a delegated act in accordance with Article 23."</p>	<p>(12) In Article 14, paragraph 1 is replaced by the following:</p> <p>'1. The Commission is empowered to adopt delegated <i>acts</i> in accordance with Article 30b to supplement this Directive by laying down detailed arrangements for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I, the monitoring and reporting of tonne-kilometre data for the purpose of an application under Articles 3e or 3f, which shall be based on the principles for monitoring and reporting set out in Annex IV and</p>	<p><u>"The Commission shall adopt implementing acts concerning the detailed arrangements for the monitoring and reporting of emissions as set out in paragraphs 1 and 2 and in Annex IV.</u></p> <p><u>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a."</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>the specification of the global warming potential of each greenhouse gas in the requirements for monitoring and reporting emissions for that gas.';</i></p> <p><i>'By 31 December 2018, the Commission shall adjust existing rules on monitoring and reporting of emissions as defined in Commission Regulation (EU) 601/2012* in order to remove regulatory barriers to investment in more recent low carbon technologies such as carbon capture and usage (CCU). Those new rules shall be effective for all CCU technologies as of 1 January 2019.</i></p> <p><i>That regulation shall also determine simplified monitoring, reporting and verification procedures for small emitters.</i></p> <p><i>* Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>of the European Parliament and of the Council. (OJ L 181, 12.7.2012, p. 30).'</i></p>		
	<p>Amendment 119 Article 1 - point 13 Article 15 - paragraphs 4 and 5</p>		
<p>(13) In Article 15, the fifth subparagraph is replaced by the following:</p> <p>“The Commission shall be empowered to adopt a delegated act in accordance with Article 23.”.</p>	<p>(13) In Article 15, the <i>fourth and fifth paragraphs are</i> replaced by the following:</p> <p>“The Commission is empowered to adopt delegated acts in accordance with Article <i>30b to supplement this directive by laying down detailed arrangements for the verification of emission reports based on the principles set out in Annex V and for the accreditation and supervision of verifiers. It shall specify conditions for the accreditation and withdrawal of recognition and peer evaluation of accreditation bodies, as appropriate.</i>”</p>	<p>(13) In Article 15, the <u>fourth and fifth subparagraphs</u> are replaced by the following:</p> <p>“<u>The Commission shall adopt implementing acts concerning the verification of emission reports based on the principles set out in Annex V and for the accreditation and supervision of verifiers. It shall specify conditions for the accreditation and withdrawal of accreditation, for mutual recognition and peer evaluation of accreditation bodies, as appropriate.</u></p> <p><u>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a.”</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
Amendment 120 Article 1 - point 13 a (new) Article 16 - paragraph 7			
	<p>(13a) In Article 16, paragraph 7 is replaced by the following:</p> <p>7. When requests such as those referred to in paragraph 5 are addressed to the Commission, the Commission shall inform the other Member States through their representatives on the Committee referred to in Article 30c(1) in accordance with the Committee's Rules of Procedure.</p>		
Amendment 121 Article 1 - point 14 Article 16 - paragraph 12			
<p>(14) In Article 16, paragraph 12 is replaced by the following:</p> <p>"12. Where appropriate, detailed rules shall be established in respect of the procedures referred to in this Article. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 22a."</p>	<p>(14) In Article 16, paragraph 12 is replaced by the following:</p> <p>"12. Where appropriate, detailed rules shall be established in respect of the procedures referred to in this Article. Those implementing acts shall be adopted in accordance with the <i>examination</i> procedure referred to in Article 30c(2)."</p>	<p>(14) In Article 16, paragraph 12 is replaced by the following:</p> <p>"12. <u>The Commission shall be empowered to adopt implementing acts containing detailed rules in respect of the procedures referred to in this Article. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 22a.</u>"</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(15) In Article 19(3), the third sentence is replaced by the following:</p> <p>"It shall also include provisions to put into effect rules on the mutual recognition of allowances in agreements to link emission trading systems. The Commission shall be empowered to adopt a delegated act in accordance with Article 23."</p>	<p>Amendment 122 Article 1 - point 15 Article 19 - paragraph 3</p> <p>(15) In Article 19, paragraph 3 is replaced by the following:</p> <p><i>'3 The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive by laying down detailed arrangements for the establishment of a standardised and secure system of registries in the form of standardised electronic databases containing common data elements to track the issue, holding, transfer and cancellation of allowances, to provide for public access and confidentiality, as appropriate, and to ensure that there are no transfers which are incompatible with the obligations resulting from the Kyoto Protocol. Those delegated acts shall also include provisions concerning the use and identification of CERs and ERUs in the EU ETS and the monitoring of the level of such use. Those acts shall also include provisions to put</i></p>	<p>(15) [...] Article 19(3) [...] is replaced by the following:</p> <p>"[...] The Commission shall be empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by laying down all necessary requirements concerning the Union Registry for the trading period commencing on 1 January 2013 and subsequent periods in the form of standardised electronic databases containing common data elements to track the issue, holding, transfer and cancellation, as relevant, of allowances, and to provide for public access and confidentiality, as appropriate. It shall also include provisions to put into effect rules on the mutual recognition of allowances in agreements to link emission trading systems."</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	into effect rules on the mutual recognition of allowances in agreements to link emission trading systems.'		
	Amendment 123 Article 1 - point 15 a (new) Article 21 - paragraph 1		
	<p>(15a) In Article 21, paragraph 1 is replaced by the following:</p> <p>'1. Each year the Member States shall submit to the Commission a report on the application of this Directive. That report shall pay particular attention to the arrangements for the allocation of allowances, financial measures pursuant to Article 10a(6), the operation of registries, the application of the implementing measures on monitoring and reporting, verification and accreditation and issues relating to compliance with this Directive and on the fiscal treatment of allowances, if any. The first report shall be sent to the Commission by 30 June 2005. The report shall be drawn up on the basis of a questionnaire or outline drafted by</p>	<p><u>(15a) In Article 21, the following paragraph is added:</u></p> <p><u>"4. Every three years, the report referred to in paragraph 1 shall also pay particular attention to the equivalent measures adopted for small installations excluded from the EU ETS. This issue shall be considered in the exchange of information referred to in paragraph 3."</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>the Commission in accordance with the procedure laid down in Article 6 of Directive 91/692/EEC. The questionnaire or outline shall be sent to Member States at least six months before the deadline for the submission of the first report.'</p>		
<p>Amendment 124 Article 1 - point 15 b (new) Article 21 - paragraph 2 a (new)</p>			
	<p><i>(15b) In Article 21, the following paragraph is inserted:</i></p> <p><i>'2a. The report shall, using data provided through the cooperation referred to in Article 18b, include a list of operators subject to the requirements of this Directive who have not opened a registry account.'</i></p>		
<p>Amendment 125 Article 1 - point 15 c (new) Article 21 - paragraph 3 a (new)</p>			
	<p><i>(15c) In Article 21 the following paragraph is added:</i></p> <p><i>'3a. In case of a reasonable suspicion of irregularities or a</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>failure by a Member State to report in accordance with paragraph 1, the Commission may undertake an independent investigation, where necessary assisted by a contracted third party. The Member State shall provide all information and access necessary for the investigation, including access to installations. The Commission shall publish a report on the investigation.'</i></p>		
<p>(16) In Article 22, the second subparagraph is replaced by the following:</p> <p>“The Commission shall be empowered to adopt a delegated act in accordance with Article 23”.</p>	<p>The Commission is empowered to adopt delegated acts in accordance with Article 30b to amend this Directive by laying down non-essential elements of the Annexes to this Directive, with the exception of Annexes I, IIa and IIb.</p>	<p>Amendment 126 Article 1 - point 16 Article 22 - paragraph 2</p> <p>“The Commission shall be empowered to adopt delegated acts in accordance with Article 23 to amend the Annexes to this Directive, with the exception of Annexes I, IIa and IIb, where appropriate, in the light of the reports provided for in Article 21 and of the experience of the application of this Directive. Annexes IV and V may be</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
		amended in order to improve the <u>monitoring, reporting and verification of emissions</u> ".	
Amendment 127 Article 1 - point 18 Article 22a			
<p>(17) The following Article 22a is inserted:</p> <p>"<i>Article 22a</i> Committee procedure</p> <p>1. The Commission shall be assisted by the Committee established by Article 8 of Decision 93/389/EEC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</p> <p>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p> <p>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply. "</p>	<p>(17) The following <i>Article</i> is inserted:</p> <p>'<i>Article 30c</i> Committee procedure'</p>	<p>(17) The following Article is inserted:</p> <p>"<i>Article 22a</i> Committee procedure</p> <p>1. The Commission shall be assisted by the <u>Climate Change Committee</u> established by Article <u>26 of Regulation (EU) 525/2013</u>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</p> <p>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p> <p>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply. "</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(18) Article 23 is replaced by the following:</p> <p>“<i>Article 23</i> Exercise of the delegation</p> <p>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p> <p>2. The power to adopt delegated acts referred to in Article 3d(3), Article 10(4), Article 10a(1) and (8), Article 10b, Article 10d, Article 14(1), Article 15, Article 19(3), Article 22, Article 24, Article 24a and Article 25a shall be conferred on the Commission for an indeterminate period of time from the (*).</p> <p>(*) date of entry into force of the basic legislative act.</p> <p>3. The delegation of powers referred to in paragraph 2 may be</p>	<p>‘<i>Article 30b</i> Exercise of the delegation’</p>	<p>Amendment 128 Article 1 - point 18 Article 23</p> <p>“<i>Article 23</i> Exercise of the delegation</p> <p>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</p> <p>2. The power to adopt delegated acts referred to in Article 3d(3), Article 10(4), Article 10a(1) [...], Article 10b, [...], Article 19(3), Article 22, Article 24 [...] and Article 25a shall be conferred on the Commission for an indeterminate period of time from the (*).</p> <p>(*) date of entry into force of the basic legislative act.</p> <p>3. The delegation of powers referred to in <u>Article 3d(3)</u>, <u>Article</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the <i>Official Journal of the European Union</i> or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p> <p>4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>5. A delegated act adopted pursuant to the preceding paragraphs shall enter into force only if no objection</p>		<p><u>10(4), Article 10a(1) and [...] Article 10b, [...] Article 19(3), Article 22, Article 24 [...] and Article 25a</u> may be revoked at any time by the European Parliament or by the Council. A decision to <u>revoke</u> shall put an end to the <u>delegation of the power specified in that decision</u>. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p> <p>3a. <u>Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.</u></p> <p>4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>5. A delegated act adopted pursuant to <u>Article 3d(3), Article 10(4),</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council." .</p>		<p>Article 10a(1) [...], Article 10b, [...], Article 19(3), Article 22, Article 24 [...] and Article 25a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council." .</p>	
<p>Amendment 129 Article 1 - point 19 - point a Article 24 - paragraph 1 - subparagraph 1</p>			
<p>(19) Article 24 is amended as follows: (a) paragraph 1 is replaced by the following: "From 2008, Member States may apply emission allowance trading in accordance with this Directive to</p>	<p>From 2008, Member States may apply emission allowance trading in accordance with this Directive to</p>	<p>"1. From 2008, Member States may apply emission allowance trading in accordance with this Directive to</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>activities and to greenhouse gases which are not listed in Annex I, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the Community scheme and the reliability of the planned monitoring and reporting system, provided that inclusion of such activities and greenhouse gases is approved by the Commission.</p>	<p>activities and to greenhouse gases which are not listed in Annex I, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the EU ETS and the reliability of the planned monitoring and reporting system, provided that inclusion of such activities and such greenhouse gases is approved by the Commission. Any such unilateral inclusion shall be proposed and approved no later than 18 months before the start of a new trading period in the EU ETS.</p>	<p>activities and to greenhouse gases which are not listed in Annex I, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the <u>Union system</u> and the reliability of the planned monitoring and reporting system, provided that inclusion of such activities and greenhouse gases is approved by the Commission, in accordance with delegated acts which the Commission shall be empowered to adopt in accordance with Article 23, if the inclusion refers to activities and greenhouse gases which are not listed in Annex I.”;</p>	
<p>Amendment 130 Article 1 - point 19 - point a Article 24 - paragraph 1 - subparagraph 2</p>			
<p>In accordance with delegated acts which the Commission shall be empowered to adopt in accordance with Article 23, if the inclusion refers to activities and greenhouse gases which are not listed in Annex I.”;</p>	<p><i>The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive by laying down detailed arrangements for approval of the inclusion of the activities and greenhouse gases referred to in the</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>first subparagraph in the emission allowance trading scheme</i> if that inclusion refers to activities and greenhouse gases which are not listed in Annex I.</p>		
<p>(b) the second subparagraph of paragraph 3 is replaced by the following:</p> <p>“The Commission shall be empowered to adopt delegated acts for such a regulation for the monitoring and reporting of emissions and activity data in accordance with Article 23”.</p>	<p>Amendment 131 Article 1 - point 19 - point b Article 24 - paragraph 3</p> <p>(b) paragraph 3 is replaced by the following:</p> <p>‘3. The Commission is empowered to adopt delegated acts <i>in accordance with Article 30b to supplement this Directive by laying down detailed arrangements</i> for the monitoring of, and reporting on, related to activities, installations and greenhouse gases which are not listed as a combination in Annex I, if that monitoring and reporting can be carried out with sufficient accuracy.’;</p>	<p>(b) the second sentence of paragraph 3 is replaced by the following:</p> <p>“The Commission shall be empowered to adopt delegated acts to supplement <u>this Directive to this effect</u>”.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(20) Article 24a is amended as follows:</p> <p>(a) the second subparagraph of paragraph 1 is replaced by the following:</p> <p>“Such measures shall be consistent with acts adopted pursuant to Article 11b(7). The Commission shall be empowered to adopt a delegated act in accordance with Article 23.”.</p> <p>(b) paragraph 2 is deleted.</p> <p>(21) Article 25(2) is deleted.</p>	<p style="text-align: center;">Amendment 132 Article 1 - point 20 - point a Article 24a - paragraph 1 - subparagraphs 1 and 2</p> <p>(a) <i>in paragraph 1, the first and second subparagraphs are replaced by the following:</i></p> <p><i>'1. The Commission is empowered to adopt delegated acts in accordance with Article 30b to supplement this Directive by laying down, in addition to the inclusions provided for in Article 24, detailed arrangements for issuing of allowances or credits in respect of projects administered by Member States that reduce greenhouse gas emissions not covered by the EU ETS.'</i></p>	<p>(a) the second subparagraph of paragraph 1 is replaced by the following:</p> <p>“Such measures shall be consistent with acts adopted pursuant to Article 11b(7). [...] The Commission is empowered to adopt implementing acts containing harmonised rules in respect of the procedures referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a”.</p> <p>(b) paragraph 2 is deleted.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p>(22) In Article 25a, paragraph 1 is replaced by the following:</p> <p>"Where a third country adopts measures for reducing the climate change impact of flights departing from that country which land in the Community, the Commission, after consulting with that third country, and with Member States within the Committee referred to in Article 23(1), shall consider options available in order to provide for optimal interaction between the Community scheme and that country's measures.</p> <p>Where necessary, the Commission may adopt amendments to provide for flights arriving from the third country concerned to be excluded from the aviation activities listed in Annex I or to provide for any other amendments to the aviation</p>	<p>Amendment 133 Article 1 - point 22 Article 25a - paragraph 1</p> <p>1. Where a third country adopts measures for reducing the climate change impact of flights departing from that country which land in the Union, the Commission, after consulting with that third country, and with Member States within the Committee referred to in Article 30c(1), shall consider options available in order to provide for optimal interaction between the EU ETS and that third country's measures.</p> <p>Where necessary, the Commission may submit a legislative proposal to the European Parliament and Council to provide for flights arriving from the third country concerned to be excluded from the aviation activities listed in Annex I or to provide for any other amendments to the aviation</p>	<p>(22) In Article 25a, <u>the first two subparagraphs of paragraph 1 are replaced by the following:</u></p> <p>"Where a third country adopts measures for reducing the climate change impact of flights departing from that country which land in the <u>Union</u>, the Commission, after consulting with that third country, and with Member States within the Committee referred to in Article 23(1), shall consider options available in order to provide for optimal interaction between the <u>Union system</u> and that country's measures.</p> <p><u>The Commission shall be empowered to adopt delegated acts in accordance with Article 23 to amend Annex I of this Directive to provide for flights arriving from the third country concerned to be excluded from the aviation activities listed in Annex I or to provide for any other amendments</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
pursuant to the fourth subparagraph. The Commission shall be empowered to adopt such amendments in accordance with Article 23."	activities listed in Annex I which are required by <i>such</i> agreement.	to the aviation activities listed in <u>Annex I which are required by an agreement concluded pursuant to Article 218 of the Treaty.</u>	
Amendment 134 Article 1 - point 22 a (new) Article 27 - paragraph 1 and 3			
	<p>(22a) In Article 27, paragraph 1 is replaced by the following:</p> <p>'1. Following consultation with the operator <i>and upon the operator's agreement</i>, Member States may exclude from the <i>EU ETS</i> installations <i>operated by an SME</i> which have reported to the competent authority emissions of less than 50 000 tonnes of carbon dioxide equivalent, excluding emissions from biomass, in each of the three years preceding the notification under point (a), and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:</p>	<p><u>(22a) In Article 27 (3), the second subparagraph is replaced by the following:</u></p> <p><u>"Any such installation shall stay in the Union system for the rest of the period referred to in Article 11(1) during which it was reintroduced."</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>(a) it notifies the Commission of each such installation, specifying the equivalent measures applying to that installation that will achieve an equivalent contribution to emission reductions that are in place and specifying how those measures would not result in higher compliance costs for such installations, before the list of installations pursuant to Article 11(1) has to be submitted and at the latest when this list is submitted to the Commission;</p> <p>(b) it confirms that monitoring arrangements are in place to assess whether any installation emits 50 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year. Member States, following an operator's request, shall allow simplified monitoring, reporting and verification measures for installations with average annual verified emissions between 2008 and 2010 which are below 5 000 tonnes a year, in accordance with Article 14;</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>(c) it confirms that if any installation emits 50 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year or the measures applying to that installation that will achieve an equivalent contribution to emission reductions are no longer in place, the installation will be reintroduced into the EU ETS;</p> <p>(d) it makes the information referred to in points (a), (b) and (c) available to the public.</p> <p>Hospitals may also be excluded if they undertake equivalent measures.'</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p align="center">Amendment 135 Article 1 - point 22 b (new) Article 27 a (new)</p> <p><i>(22b) The following Article is inserted:</i></p> <p><i>'Article 27a</i></p> <p><i>Exclusion of small installations not subject to equivalent measures</i></p> <p><i>1. Following consultation with the operator, Member States may exclude from the EU ETS installations which have reported to the competent authority emissions of less than 5 000 tonnes of carbon dioxide equivalent, excluding emissions from biomass, in each of the three years preceding the notification under point (a), if the Member State concerned complies with the following conditions:</i></p> <p><i>(a) it notifies the Commission of each such installation before the list of installations pursuant to Article 11(1) is to be submitted or at the latest when that list is</i></p>	<p><u>(22b) Article 30 is replaced by the following:</u></p> <p><u>“Article 30</u></p> <p><u>Review in the light of the implementation of the Paris Agreement and the development of carbon markets in other major economies</u></p> <p>1. <u>The provisions of 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.</u></p> <p>2. <u>The measures to support certain energy intensive industries that may be subject to carbon leakage referred to in Articles 10a and 10b shall also be kept under review in the light of climate policy measures in other major economies.</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>submitted to the Commission;</i></p> <p><i>(b) it confirms that monitoring arrangements are in place to assess whether any installation emits 5 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year;</i></p> <p><i>(c) it confirms that if any installation emits 5 000 tonnes or more of carbon dioxide equivalent, excluding emissions from biomass, in any one calendar year the installation will be reintroduced into the EU ETS, unless Article 27 is applicable;</i></p> <p><i>(d) it makes the information referred to in points (a), (b) and (c) available to the public.</i></p> <p><i>2. When an installation is reintroduced into the EU ETS pursuant to paragraph 1(c), any allowances issued pursuant to Article 10a shall be granted starting with the year of the reintroduction. Allowances issued</i></p>	<p>3. <u>The Commission shall report to the European Parliament and to the Council following 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, and may make a proposal to the European Parliament and the Council to amend the Directive as appropriate."</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>to such installations shall be deducted from the quantity to be auctioned pursuant to Article 10(2) by the Member State in which the installation is situated.'</i></p>		
	<p>Amendment 136 Article 1 - point 22c (new) Article 29</p>		
	<p><i>(22c) Article 29 is amended as follows:</i></p> <p>'Report to ensure the better functioning of the carbon market</p> <p>If, on the basis of regular reports referred to in Article 10(5), the Commission has evidence that the carbon market is not functioning properly, it shall submit a report to the European Parliament and to the Council. <i>The report shall include a section dedicated to the interaction between the EU ETS and other Union and national climate and energy policies, as regards the volumes of emissions reductions, the cost effectiveness of such policies, and their impact on demand for EU ETS allowances.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>The report may be accompanied, if appropriate, by <i>legislative</i> proposals aiming at increasing transparency of the <i>EU ETS</i> and addressing <i>the capacity to contribute to the Union's 2030 and 2050 climate and energy goals and addressing</i> measures to improve its functioning, <i>including measures to account for the impact of complementary Union-wide energy and climate policies on the supply-demand balance of the EU ETS.</i></p>		
Amendment 137 Article 1 - point 22d (new) Article 30a (new)			
	<p>(22d) <i>The following Article is inserted:</i></p> <p><i>'Article 30a</i> <i>Adjustments upon global stocktake under the UNFCCC and the Paris Agreement</i></p> <p><i>Within six months of the facilitative dialogue under the UNFCCC in 2018 the Commission shall publish a communication assessing the consistency of the</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>Union's climate change legislation with the Paris Agreement goals. In particular, the communication shall examine the role and adequacy of the EU ETS in meeting the Paris Agreement goals.</i></p> <p><i>Within six months of the global stocktake in 2023 and subsequent global stocktakes thereafter, the Commission shall submit a report assessing the need to adjust the Union's climate action accordingly.</i></p> <p><i>The report shall consider adjustments to the EU ETS within the context of global mitigation efforts and efforts undertaken by other major economies. In particular, the report shall assess the need for stricter emissions reductions, the need to adjust the carbon leakage provisions, and whether or not additional policy measures and tools are needed to meet the greenhouse gas commitments of the Union and Member States.</i></p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>The report shall take into account the risk of carbon leakage, the competitiveness of European industries, investments within the Union and the Union's industrialisation policy.</i></p> <p><i>The report shall be accompanied by a legislative proposal, if appropriate, and in such a case the Commission shall in parallel publish a full impact assessment.'</i></p>		
	<p>Amendment 138 Article 1 - point 22e (new) Annex I - paragraph 3</p>		
	<p><i>(22e) Annex I(3) is replaced by the following:</i></p> <p>'3. 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, are added together. Those units could include all types of boilers, burners, turbines, heaters, furnaces, incinerators,</p>		

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p>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, <i>back-up and emergency units used solely to generate electricity for on-site consumption in the event of a power cut</i> and units which use exclusively biomass shall not be taken into account for the purposes of this calculation. “Units using exclusively biomass” includes units which use fossil fuels only during start-up or shut-down of the unit.’</p>		
Article 1 - paragraph 23 Annex IIa			
(23) Annex IIa is amended in accordance with the Annex I to this Directive.		(23) In Annex IIa of Directive <u>2003/87/EC</u> , the entries for <u>Belgium, Italy, Luxembourg and Sweden are deleted.</u>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	Article 1 - paragraph 24 Annex IIb		
(24) Annex IIb is amended in accordance with the Annex II to this Directive.		(24) Annex IIb of Directive <u>2003/87/EC</u> is replaced by the text appearing in <u>Annex I</u> to this Directive.	
(25) Annex IV is amended in accordance with the Annex III to this Directive.		(25) Annex IV is amended in accordance with [...] <u>Annex II</u> to this Directive.	
	<p style="text-align: center;">Amendment 139 Article 1a (new)</p> <p style="text-align: center;">Article 1 - paragraph 5 - subparagraphs 1a and 1b (new)</p> <p>Article 1a</p> <p><i>Amendments to Decision (EU) 2015/1814</i></p> <p><i>Decision (EU) 2015/1814 is amended as follows:</i></p> <p><i>In Article 1(5), the following subparagraphs are added to the first subparagraph:</i></p> <p><i>1a) 'By way of derogation, up until the review period referred to in</i></p>	<p>Article 1a</p> <p><u>Amendments to Decision (EU) 2015/1814</u></p> <p><u>Article 1 of Decision (EU) 2015/1814 is amended as follows:</u></p> <p><u>(1) in paragraph 5, first subparagraph [...], the following sentence is added:</u></p> <p><u>"By way of derogation, until 31 December 2023, the percentages</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
	<p><i>Article 3, the percentages referred to in this subparagraph shall be doubled. The review shall consider doubling the intake rate until market balance is restored.</i></p> <p><i>1b) In addition, the review shall introduce a cap on the MSR and, if appropriate, the review shall be accompanied by a legislative proposal.'</i></p>	<p>and the 100 million allowances referred to in this subparagraph shall be doubled [...]".</p>	
	<p>Article 1a (new) Article 1 - paragraph 5 - subparagraph 2 (new)</p>	<p>(2) [...] the following paragraph is inserted: "5a. Unless otherwise decided in the first review in accordance with Article 3, as from 2024, allowances held in the reserve above the total number of allowances auctioned during the previous year shall no longer be valid."</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p><i>Article 2 Transposition</i></p> <p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2018 at the latest. They shall forthwith communicate to the Commission the text of those provisions.</p> <p>When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p> <p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	<p>Article 2 - paragraph 1</p>	<p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by <u>[18 months following the entry into force of this Directive]</u> at the latest. They shall forthwith communicate to the Commission the text of those provisions.</p> <p>When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p> <p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p><i>Article 3</i> <i>Transitional provision</i></p> <p>When complying with their obligation as set out in the first subparagraph of Article 2(1) of this Directive, Member States shall ensure that their national legislation transposing Article 10, Article 10a(5) to (7), the first and second subparagraphs of Article 10a(8), Article 10a(12) to (18), Article 10c and Article 11a(8) and (9) and Annex IIa and Annex IIb of Directive 2003/87/EC as last amended by Decision (EU) 2015/..., continue to apply until 31 December 2020.</p>	<p>Article 3 - paragraph 1</p>	<p>When complying with their obligation as set out in the first subparagraph of Article 2(1) of this Directive, Member States shall ensure that their national legislation transposing Article 10, Article 10a(5) to (7), the first and second subparagraphs of Article 10a(8), Article 10a(12) to (18), Article 10c and Article 11a(8) and (9) and Annex IIa and Annex IIb of Directive 2003/87/EC as last amended by Decision (EU) 2015/1814, continue to apply until 31 December 2020. <u>The list contained in the Annex to Commission Decision 2014/746/EU¹⁰ shall continue to apply until 31 December 2020.</u></p> <p>¹⁰ <u>Commission Decision 2014/746/EU of 27 October 2014 determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and</u></p>	

Commission proposal	EP amendments	Council General Approach	Comments/Suggestions
<p><i>Article 4</i> <i>Entry into force</i></p> <p>This Directive shall enter into force on the twentieth day following its publication in the <i>Official Journal of the European Union</i>.</p>		<p>subsectors which are deemed to be exposed to a significant risk of carbon leakage, for the period 2015 to 2019 (OJ L 308, 29.10.2014, p. 114).</p>	
<p><i>Article 5</i> <i>Addressees</i></p> <p>This Directive is addressed to the Member States.</p> <p>Done at Brussels,</p> <p><i>For the European Parliament</i> <i>The President</i></p> <p><i>For the Council</i> <i>The President</i></p>			

Commission proposal

ANNEXES

to the

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments

Annex I

Annex IIa to Directive 2003/87/EC is replaced by the following:

“ANNEX IIa

Increases in the percentage of allowances to be auctioned by Member States pursuant to Article 10(2)(a) for the purpose of solidarity and growth in order to reduce emissions and adapt to the effects of climate change

Member State share

Bulgaria	53%
Czech Republic	31%
Estonia	42%
Greece	17%
Spain	13%
Cyprus	20%
Latvia	56%
Lithuania	46%
Hungary	28%
Malta	23%
Poland	39%
Portugal	16%
Romania	53%
Slovenia	20%
Slovakia	41% "

Annex II

Annex IIb to Directive 2003/87/EC is replaced by the following:

“ANNEX IIb

Distribution of funds from the Modernisation Fund up to 31 December 2030

	Share of Modernisation Fund
Bulgaria	5,84%
Czech Republic	15,59%
Estonia	2,78%
Croatia	3,14%
Latvia	1,44%
Lithuania	2,57%
Hungary	7,12%
Poland	43,41%
Romania	11,98%
Slovakia	6,13% "

Annex III

In Annex IV, Part A, to Directive 2003/87/EC, the paragraph under the fourth heading entitled "Monitoring of emissions of emissions of other greenhouse gases" replaced by the following:

"Standardised or accepted methods shall be used, developed by the Commission in collaboration with all relevant stakeholders and adopted pursuant to Article 14(1).".

Council General Approach

[...] (Annex deleted)

ANNEX I

Annex IIb to Directive 2003/87/EC is replaced by the following:

“ANNEX IIb

Distribution of funds from the Modernisation Fund up to 31 December 2030

Share of Modernisation Fund

Bulgaria	5,84%
Czech Republic	15,59%
Estonia	2,78%
Croatia	3,14%
Latvia	1,44%
Lithuania	2,57%
Hungary	7,12%
Poland	43,41%
Romania	11,98%
Slovakia	6,13% "

ANNEX II

In Annex IV, Part A, to Directive 2003/87/EC, the paragraph under the fourth heading entitled "Monitoring of emissions of emissions of other greenhouse gases" is replaced by the following:

"Standardised or accepted methods shall be used, developed by the Commission in collaboration with all relevant stakeholders and adopted pursuant to Article 14(1).".
