

Proposal for a Decision of the European Parliament and of the Council concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC

Commission proposal	EP amendments	Council Position	Comments
Recital 0 (new)			
		<p><u>(0) Directive 2003/87/EC of the European Parliament and of the Council¹ establishes a system for greenhouse gas emission allowance trading within the Union (EU ETS) in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner.</u></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>Agreed in principle (subject to confirmation at the trilogue and in the context of overall agreement on the final compromise package).</p>

Commission proposal	EP amendments	Council Position	Comments
Amendment 1 Recital -1 (new)			
	<p><i>(-1) The European Council conclusions of 23 and 24 October 2014 on the 2030 Climate and Energy Policy Framework state that a well-functioning, reformed Emissions Trading System (ETS) with an instrument to stabilise the market will be the main European instrument to achieve the Union's greenhouse gas emissions reduction target.</i></p>	<p>(-1) <u>The European Council conclusions of 23 and 24 October 2014 on the 2030 Climate and Energy Policy Framework state that a well-functioning, reformed Emissions Trading System (ETS) with an instrument to stabilise the market will be the main European instrument to achieve the Union's greenhouse gas emissions reduction target.</u></p>	<p>EP amendment acceptable.</p>

Commission proposal	EP amendments	Council Position	Comments
Recital 1			
<p>(1) Article 10(5) of Directive 2003/87/EC of the European Parliament and of the Council¹ provides that an annual report on the functioning of the European carbon market should be submitted each year to the European Parliament and the Council.</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) Article 10(5) of Directive 2003/87/EC provides that <u>each year the Commission is to submit a report to the European Parliament and the Council</u> on the functioning of the European carbon market.</p>	<p>Agreed in principle.</p>

Commission proposal	EP amendments	Council Position	Comments
Amendment 2 Recital 1 a (new)			
	<p><i>(1a) In the light of the need to maintain the incentives in the Unions's ETS during the negotiations on Directive 2012/27/EU of the European Parliament and of the Council^{1a}, the Commission came forward with a declaration to examine options, including among others the permanent withholding of the necessary amount of allowances, for action with a view to adopting as soon as possible further appropriate structural measures to strengthen the ETS during phase 3, and make it more effective.</i></p> <hr/> <p><i>^{1a} Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency,</i></p>		Not acceptable.

Commission proposal	EP amendments	Council Position	Comments
Amendment 3 Recital 2			
<p>(2) The report from the Commission to the European Parliament and the Council on the state of the European carbon market in 2102⁷ identified the need for measures in order to tackle structural supply-demand imbalances. The impact assessment on the 2030 climate and energy policy framework⁸ indicates that this imbalance is expected to continue, and would not be sufficiently addressed by adapting the linear trajectory to a more stringent target within this framework. A change in the linear factor only changes gradually the cap. Accordingly, the surplus would also only gradually decline, such that the market would have to continue to operate for more than a decade with a surplus of around 2 billion allowances or more. In order to address this problem and to make the European Emission Trading System more resilient to imbalances, a market stability reserve should be established. To ensure regulatory certainty as regards auction supply in phase 3 and allow for some lead-time</p>	<p>(2) The report from the Commission to the European Parliament and the Council on the state of the European carbon market in 2012¹ identified the need for measures in order to tackle structural supply-demand imbalances. The impact assessment on the 2030 climate and energy policy framework² indicates that this imbalance is expected to continue, and would not be sufficiently addressed by adapting the linear trajectory to a more stringent target within this framework. A change in the linear factor only changes gradually the cap. Accordingly, the surplus would also only gradually decline, such that the market would have to continue to operate for more than a decade with a surplus of around 2 billion allowances or more thereby preventing the ETS from delivering the necessary investment signal to reduce CO₂ emissions in a cost efficient manner. In order to address this problem and to make the ETS more resilient to supply-demand imbalances, and thus to correct a</p>	<p>(2) The report from the Commission to the European Parliament and <u>to</u> the Council on the state of the European carbon market in <u>2012</u>¹ identified the need for measures in order to tackle structural supply-demand imbalances. The impact assessment on the 2030 climate and energy policy framework ² indicates that this imbalance is expected to continue, and would not be sufficiently addressed by adapting the linear trajectory to a more stringent target within this framework. A change in the linear factor only changes gradually the cap. Accordingly, the surplus would also only gradually decline, such that the market would have to continue to operate for more than a decade with a surplus of around 2 billion allowances or more, <u>thereby preventing the ETS from delivering the necessary investment signal to reduce CO₂ emissions in a cost-efficient manner and being a driver of low-carbon innovation contributing to economic growth and jobs.</u> In order to address this problem and to make the <u>EU ETS</u></p>	<p>The EP amendment is partly acceptable (see compromise proposal in third column).</p>

Commission proposal	EP amendments	Council Position	Comments
<p><i>adjusting to the introduction of the design change</i>, the market stability reserve should be established <i>as of phase 4 starting</i> in 2021. In order to preserve a maximum degree of predictability, clear rules should be set for placing allowances into the reserve and releasing them from the reserve. Where the conditions are met, beginning in 2021, allowances corresponding to 12% of the number of allowances in circulation in year x-2 should be put into the reserve. A corresponding number of allowances should be released from the reserve when the total number of allowances in circulation is lower than 400 million.</p>	<p><i>design error in the system, so as to enable the ETS to function as an orderly market with stable and competitive prices, reflecting the true value of allowances</i>, a market stability reserve should be established <i>during phase 3, so as to establish the benefits thereof before the launch</i> of phase 4 in 2021. <i>The market stability reserve should also ensure synergy with other climate policies such as those on renewable energy and energy efficiency</i>. In order to preserve a maximum degree of predictability, clear rules should be set for placing allowances into the reserve and releasing them from the reserve. Where the conditions are met, beginning in 2018, allowances corresponding to 12% of the number of allowances in circulation in year x-1 should be put into the reserve. A corresponding number of allowances should be released from the reserve when the total number of allowances in circulation is lower than 400 million.</p>	<p>more resilient to <u>supply-demand imbalances</u> so as to enable the ETS to function in an orderly market, a market stability reserve (the "reserve") should be established <u>in 2018 and it should be operational as of 2019</u>. The reserve will also <u>enhance synergy with other climate and energy policies</u>. In order to preserve a maximum degree of predictability, clear rules should be set for placing allowances into the reserve and releasing them from <u>it</u>. The reserve should function by <u>triggering adjustments to the annual auction volumes</u>. Where the conditions are met, <u>each year</u>, beginning in <u>2019</u>, allowances corresponding to 12% of the number of allowances in circulation, <u>as set out in the most recent publication</u>, should be <u>deducted from the auction volumes and put into the reserve</u>. <u>In any year, a corresponding number of allowances should be released from the reserve and added to auction volumes if the relevant total number of allowances in circulation is fewer than 400 million</u>. <u>To this end, the Commission and the Member States should, without undue delay</u></p>	

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<p>¹ COM(2012)652 final</p> <p>² Insert reference</p>	<p>¹ COM(2012)652 final</p> <p>² Insert reference</p>	<p><u>following the publication of the total number of allowances in circulation by the Commission by 15 May of a given year, ensure that the auction calendars of the common auction platform and, where applicable, opt-out auction platforms are adjusted to take into account the allowances placed in or to be released from the reserve. The adjustment of the volume of allowances to be auctioned should be spread over a period of 12 months following the change to the relevant auctioning calendar. Taking into account the need for a smooth operation of the auction process, further details on the adjustment, where necessary, should be set out in the regulation adopted pursuant to Article 10(4) of Directive 2003/87/EC.</u></p> <p>¹ 16352/12 - COM(2012) 652 final.</p> <p>² Insert reference.</p>	

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Amendment 4 Recital 3			
<p>(3) Furthermore, in addition to the establishment of the market stability reserve, a few consequential amendments should be made to Directive 2003/87/EC to ensure consistency and smooth operation of the ETS. In particular, the operation of Directive 2003/87/EC may lead to large volumes of allowances to be auctioned at the end of each trading period which can undermine market stability. Accordingly, in order to avoid an imbalanced market situation of supply of allowances at the end of one trading period and the beginning of the next with possibly disruptive effects for the market, provision should be made for the <i>auctioning of part of any large increase of supply</i> at the end of <i>one</i> trading period <i>in the first two years of the next period</i>.</p>	<p>(3) Furthermore, in addition to the establishment of the market stability reserve, a few consequential amendments should be made to Directive 2003/87/EC to ensure consistency and smooth operation of the ETS. In particular, the operation of Directive 2003/87/EC may lead to large volumes of allowances to be auctioned at the end of each trading period which can undermine market stability. Accordingly, in order to avoid an imbalanced market situation of supply of allowances at the end of one trading period with possibly disruptive effects for the market, provision should be made for <i>the placing of such allowances into the market stability reserve</i> at the end of <i>the</i> trading period <i>in question</i>.</p>	<p>(3) Furthermore, in addition to the establishment of the [...] reserve, a few consequential amendments should be made to Directive 2003/87/EC to ensure consistency and smooth operation of the <u>EU</u> ETS. In particular, the <u>implementation</u> of Directive 2003/87/EC may lead to large volumes of allowances being auctioned at the end of each trading period which can undermine market stability. Accordingly, in order to avoid an imbalanced market situation of supply of allowances at the end of one trading period and the beginning of the next with possibly disruptive effects for the market, provision should be made for the auctioning of part of any large increase of supply at the end of one trading period in the first two years of the next period. <u>In order to further enhance the stability of the European carbon market and avoid artificially increasing the supply towards the end of the trading period starting in 2013, allowances not allocated to installations pursuant to Article 10a(7) of Directive 2003/87/EC and</u></p>	<p>Linked to amendments 11, 15 and 18.</p> <p>See compromise proposal in third column.</p>

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		<p><u>because of the application of Article 10a(19) and (20) of that Directive ("unallocated allowances") should be placed in the reserve in 2020. The Commission should review Directive 2003/87/EC in relation to those unallocated allowances and, if appropriate, submit a proposal to the European Parliament and to the Council on options for further action.</u></p>	

Commission proposal	EP amendments	Council Position	Comments
Amendment 5 Recital 3 a (new)			
	<p><i>(3a) Commission Regulation (EU) No 176/2014^{1a} provided for the "back-loading" of 900 million allowances from the years 2014 - 2016, to years 2019 and 2020 (the end of phase 3 of the ETS). The impact of the auctioning of those back-loaded allowances in 2019 and 2020 would run counter to the desired aim of the current proposal for a market stability reserve, which is a reduction in the surplus of allowances. Therefore, the backloaded allowances should not be auctioned but instead placed directly in the market stability reserve.</i></p> <p>^{1a} <i>Commission Regulation (EU) No 176/2014 of 25 February 2014 amending Regulation (EU) No 1031/2010 in particular to determine the volumes of greenhouse gas emission allowances to be auctioned in 2013-20 (OJ L 56, 26.2.2014, p. 11).</i></p>	<p><u>(3a) Moreover, the planned reintroduction of 300 million allowances in 2019 and 600 million allowances in 2020, as determined in Commission Regulation (EU) No 176/2014¹ pursuant to Article 10(4) of Directive 2003/87/EC², would undermine the aim of the reserve to tackle structural supply-demand imbalances. Accordingly, the 900 million allowances should not be auctioned in 2019 and 2020 but should instead be placed in the reserve.</u></p> <p>¹ <u>Commission Regulation (EU) No 176/2014 of 25 February 2014 amending Regulation (EU) No 1031/2010 in particular to determine the volumes of greenhouse gas emission allowances to be auctioned in 2013-20 (OJ L 56, 26.2.2014, p. 11)</u></p> <p>² <u>Directive as amended by Decision No 1359/2013/EU of the European Parliament and of the Council of 17 December 2013 amending Directive 2003/87/EC clarifying provisions on the timing of auctions of greenhouse gas allowances (OJ L OJ L 343, 19.12.2013, p. 1)</u></p>	<p>Agreed in principle.</p>

Commission proposal	EP amendments	Council Position	Comments
Amendment 6 Recital 3 b (new)			
	<p><i>(3b) It is important that the ETS incentivises carbon efficient growth and that the competitiveness of Union industries at genuine risk of carbon leakage is protected. The European Parliament's resolution of 4 February 2014 on the Action Plan for a competitive and sustainable steel industry in Europe already stressed "that the Commission should address more concretely and in detail the issue of carbon leakage". The European Council conclusions of 23 and 24 October 2014 on the 2030 Climate and Energy Policy Framework gave clear guidance on the continuation of free allocations and carbon leakage provisions after 2020 and state that "the most efficient installations in the sectors at risk of losing international competitiveness should not face undue carbon costs leading to carbon leakage". Proportionate measures reflecting the carbon price prevailing at the time of their introduction should be put in place in order to shelter industries at genuine risk of carbon leakage</i></p>	<p><u>(3b) It is important that the ETS incentivises carbon efficient growth and that the competitiveness of the European Union's industries at genuine risk of carbon leakage is protected. The European Council conclusions of 23 and 24 October 2014 on the 2030 Climate and Energy Policy Framework gave clear guidance on the continuation of free allocation and carbon leakage provisions after 2020. Building on this strategic guidance, the Commission should within 6 months following the adoption of this Decision make a proposal to review Directive 2003/87/EC and in particular Article 10a thereof. In pursuing the goal of a level playing field, that review should also look at harmonised arrangements to compensate for indirect costs at the Union level.</u></p>	<p>The EP amendment is partly acceptable (see compromise proposal in third column).</p> <p>Linked to amendment 19.</p>

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	<p><i>from any negative impact on their competitiveness and thus to avoid additional ETS-related costs at the level of the most efficient installations. The Commission should review Directive 2003/87/EC and in particular Article 10a thereof in this respect. In pursuing the goal of creating a single energy market, that review should also include harmonised arrangements at Union level compensating for carbon costs passed on in electricity prices, different from the mechanism currently governed by state aid rules so as to secure a fully level playing field.</i></p>		

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Amendment 7 Recital 4			
<p>(4) The Commission should review the functioning of the market stability reserve in relation to its operation in the light of experience of its application. The review of the functioning of the market stability reserve should in particular consider whether the rules on placing allowances in the reserve are appropriate with regard to the aim pursued to tackle structural supply-demand imbalances.</p>	<p>(4) The Commission should, <i>within three years of the date of operation of the market stability reserve</i>, review the functioning of the market stability reserve in relation to its operation in the light of experience of its application. The review of the functioning of the market stability reserve should in particular consider whether the rules on placing <i>and releasing</i> allowances in <i>and from</i> the reserve are appropriate with regard to the aim pursued to tackle structural supply-demand imbalances. <i>The review should also look into the impact of the market stability reserve on the Union's industrial competitiveness and on the risk of carbon leakage.</i></p>	<p>(4) The Commission should <u>monitor the functioning of the reserve in the context of the annual carbon market report. This report should consider relevant competitiveness effects, in particular in the industrial sector, including GDP, employment and investment indicators. In addition, the Commission should, within three years of the date of operation of the reserve and periodically thereafter</u> review the functioning of the [...] reserve [...] in the light of experience of its application. The review of the functioning of the [...] reserve should in particular consider whether the rules on placing allowances in the reserve <u>and releasing them</u> are appropriate with regard to the aim pursued to tackle structural supply-demand imbalances [...]. <u>This should include an analysis of the market balance, including all relevant factors affecting supply and demand, and of the appropriateness of the predefined range triggering adjustments to annual auction volumes, as well as the percentage rate applied to the total number of</u></p>	<p>The first part of the amendment is acceptable in substance as an addition to the Council text.</p> <p>The second part is acceptable in substance.</p> <p>The last part is partly acceptable (see third column) (linked to amendment 20).</p>

Commission proposal	EP amendments	Council Position	Comments
		<p><u>allowances in circulation. Where the analysis indicates that the range is no longer appropriate in the light of changed market developments and new information available at the time of the review, the Commission should swiftly submit a proposal to address this situation. The review should also look into the impact of the reserve on growth, jobs, the European Union's industrial competitiveness and on the risk of carbon leakage. The review of the functioning of the reserve should be objective and take into account the need to preserve regulatory stability and ensure long-term predictability in the transition to a low-carbon economy.</u></p>	

Commission proposal	EP amendments	Council Position	Comments
Amendment 8 Recital 5			
(5) <i>Articles 10 and 13(2) of Directive 2003/87/EC should therefore be amended accordingly,</i>	(5) Directive 2003/87/EC should therefore be amended accordingly,	(5) [...] Directive 2003/87/EC should therefore be amended accordingly,	The EP amendment is acceptable.
Amendment 9 Article 1 – paragraph 1			
1. A market stability reserve is established, and shall operate from 1 January 2021 .	1. A market stability reserve is established <i>in 2018</i> and shall operate <i>by 31 December 2018</i> .	1. A market stability reserve is established <u>in 2018</u> , <u>and the placing of allowances in the reserve shall operate from 1 January 2019</u> .	The first part of the amendment is acceptable. The second part is not acceptable.
Amendment 10 Article 1 – paragraph 1 a (new)			
	<i>1a. The Commission shall ensure that allowances back-loaded in accordance with Commission Regulation (EU) No 176/2014 1a are directly placed in the market stability reserve.</i> <hr/> <i>1a Commission Regulation (EU) No 176/2014 of 25 February 2014 amending Regulation (EU) No 1031/2010 in particular to determine the volumes of greenhouse gas emission allowances to be auctioned in 2013-20 (OJ L 56, 26.2.2014, p. 11).</i>	<u>1a. The quantity of 900 million allowances deducted from auctioning volumes during the period 2014-2016, as determined in Commission Regulation (EU) No 176/2014 pursuant to Article 10(4) of Directive 2003/87/EC, shall not be added to the volumes to be auctioned in 2019 and 2020 but shall instead be placed in the reserve.</u>	Agreed in principle.

Commission proposal	EP amendments	Council Position	Comments
Amendment 11 Article 1 – paragraph 1 b (new)			
	<p><i>1b. Allowances remaining in the new entrants' reserve at the end of a trading period, and allowances not allocated due to closures or under the derogation for the modernisation of the electricity sector shall be considered "unallocated allowances". All such unallocated allowances shall not be auctioned at the end of the third trading period but shall be directly placed in the market stability reserve.</i></p>	<p><u>1b. Allowances not allocated to installations pursuant to Article 10a(7) of Directive 2003/87/EC and because of the application of Article 10a(19) and (20) of that Directive shall be placed in the reserve in 2020. The Commission shall review Directive 2003/87/EC in relation to those allowances and, if appropriate, submit a proposal to the European Parliament and to the Council.</u></p>	<p>The EP amendment is partly acceptable (see compromise proposal in third column).</p> <p>Linked to amendments 4, 15 and 18.</p>

Commission proposal	EP amendments	Council Position	Comments
Amendment 12 - Article 1 – paragraph 2			
<p>2. The Commission shall publish the total number of allowances in circulation each year, by 15 May of the subsequent year. The total number of allowances in circulation for year x shall be the cumulative number of allowances issued in the period since 1 January 2008, including the number issued pursuant to Article 13(2) of Directive 2003/87/EC in that period and entitlements to use international credits exercised by installations under the EU emission trading system in respect of emissions up to 31 December of year x, minus the cumulative tonnes of verified emissions from installations under the EU emission trading system between 1 January 2008 and 31 December of year x, any allowances cancelled in accordance with Article 12(4) of Directive 2003/87/EC and the number of allowances in the reserve. No account shall be taken of emissions during the three-year period starting in 2005 and ending in 2007 and allowances issued in respect of those emissions. The first publication shall take place by 15 May 2017.</p>	<p>2. The Commission shall publish the total number of allowances in circulation each year, by 15 May of the subsequent year. The total number of allowances in circulation for year x shall be the cumulative number of allowances issued in the period since 1 January 2008, including the number issued pursuant to Article 13(2) of Directive 2003/87/EC in that period and entitlements to use international credits exercised by installations under the EU emission trading system in respect of emissions up to 31 December of year x, minus the cumulative tonnes of verified emissions from installations under the EU emission trading system between 1 January 2008 and 31 December of year x, any allowances cancelled in accordance with Article 12(4) of Directive 2003/87/EC and the number of allowances in the reserve. No account shall be taken of emissions during the three-year period starting in 2005 and ending in 2007 and allowances issued in respect of those emissions. The first publication shall take place by 15 May 2016.</p>	<p>(2) The Commission shall publish the total number of allowances in circulation each year, by 15 May of the subsequent year. The total number of allowances in circulation <u>in a given year</u> shall be the cumulative number of allowances issued in the period since 1 January 2008, including the number issued pursuant to Article 13(2) of Directive 2003/87/EC in that period and entitlements to use international credits exercised by installations under the EU <u>ETS</u> in respect of emissions up to 31 December of <u>that year [...]</u>, minus the cumulative tonnes of verified emissions from installations under the EU <u>ETS</u> between 1 January 2008 and 31 December of <u>that same year [...]</u>, any allowances cancelled in accordance with Article 12(4) of Directive 2003/87/EC and the number of allowances in the reserve. No account shall be taken of emissions during the three-year period starting in 2005 and ending in 2007 and allowances issued in respect of those emissions. The first publication shall take place by 15 May 2017.</p>	<p>Amendment not acceptable.</p>

Commission proposal	EP amendments	Council Position	Comments
Amendment 13 Article 1 – paragraph 3			
<p>3. In each year beginning in 2021, a number of allowances equal to 12% of the total number of allowances in circulation in year x-2, as published in May year x-1, shall be placed in the reserve, unless this number of allowances to be placed in the reserve would be less than 100 million.</p>	<p>3. <i>In accordance with Article 1(1) providing for timely implementation when the reserve is established</i>, a number of allowances equal to 12% of the total number of allowances in circulation in year x-1, as published in May year x, shall be placed in the reserve <i>without undue delay</i>, unless this number of allowances to be placed in the reserve would be less than 100 million.</p>	<p>3. Each year [...], a number of allowances equal to 12% of the total number of allowances in circulation, <u>as set out in the most recent publication under paragraph 2</u>, shall be <u>deducted from the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and shall be placed in the reserve over a period of 12 months beginning in September of that year</u>, unless this number of allowances to be placed in the reserve would be <u>fewer than 100 million</u>. <u>In the first year of the reserve's functioning, placements shall also take place between the month referred to in Article 1(1) and September of that year of 8%¹ of the total number of allowances in circulation as set out in the most recent publication.</u></p> <p><u>Without prejudice to the total amount of allowances to be deducted pursuant to this paragraph, until 31 December [2030], allowances referred to in Article 10 (2) (b) of Directive 2003/87/EC shall not be taken into</u></p>	<p>The amendment is partly acceptable in substance (see third column).</p>

Commission proposal	EP amendments	Council Position	Comments
		<p><u>account when determining Member States' shares contributing to that total amount.</u></p> <p><u>¹ 1% for each calendar month which this represents.</u></p>	
Article 1 – paragraph 4			
<p>4. In any year, if the total number of allowances in circulation is lower than 400 million, 100 million allowances shall be released from the reserve. In case less than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.</p>		<p>4. In any year, if the total number of allowances in circulation is <u>fewer</u> than 400 million, 100 million allowances shall be released from the reserve <u>and added to the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC</u> . <u>Where fewer</u> than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.</p>	

Commission proposal	EP amendments	Council Position	Comments
Article 1 – paragraph 5			
<p>5. In any year, if paragraph 4 is not applicable and measures are adopted under Article 29a of the Directive, 100 million allowances shall be released from the reserve. In case less than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.</p>		<p>5. In any year, if paragraph 4 is not applicable and measures are adopted under Article 29a of [...] Directive <u>2003/87/EC</u>, 100 million allowances shall be released from the reserve <u>and added to the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC.</u> <u>Where fewer</u> than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.</p>	

Commission proposal	EP amendments	Council Position	Comments
Article 1 – paragraph 6			
<p>6. Where action is taken pursuant to paragraphs 3 or 5, the auction calendars shall take into account the allowances placed in the reserve or to be released from the reserve.</p>		<p>6. Where, <u>following the publication of the total number of allowances in circulation</u>, action is taken pursuant to <u>the preceding paragraphs [...]</u>, the auction calendars shall take into account the allowances placed in the reserve or to be released from the reserve. <u>The allowances shall be placed in the reserve or released from it over a period of 12 months.</u> <u>Where there is a release of allowances pursuant to paragraph 4 or 5, irrespective of the period during which the release of allowances takes place, it shall follow the Member States' shares applicable at the time of their placement into the reserve and it shall also follow the order in which the allowances were placed into the reserve.</u></p>	

Commission proposal	EP amendments	Council Position	Comments
Amendment 14 Article 2 – paragraph 1 (formerly 2) Directive 2003/87/EC - Article 10 – paragraph 1			
<p>"1. From 2021 onwards, Member States shall auction all allowances that are not allocated free of charge in accordance with Article 10a and 10c and are not placed in the market stability reserve established by Decision [<i>OPEU please insert number of this Decision when known</i>] of the European Parliament and of the Council(*)."</p>	<p>"1. From 2018 onwards, Member States shall auction all allowances that are not allocated free of charge in accordance with Article 10a and 10c and are not placed in the market stability reserve established by Decision [<i>OPEU please insert number of this Decision when known</i>] of the European Parliament and of the Council(*)."</p>	<p>"1. From <u>2019</u> onwards, Member States shall auction all allowances that are not allocated free of charge in accordance with Article 10a and 10c and are not placed in the market stability reserve established by Decision [<i>OJ: please insert number of this Decision when known and add footnote</i>] of the European Parliament and of the Council(*)."</p>	<p>The EP amendment is not acceptable.</p>

Commission proposal	EP amendments	Council Position	Comments
Amendment 15 Article 2 – paragraph 2 (formerly 3) Directive 2003/87/EC- Article 10 – paragraph 1a			
<p>3. In Article 10, the following paragraph shall be inserted:</p> <p>"1a. Where the volume of allowances to be auctioned by Member States in the last year of each period referred to in Article 13(1) exceeds by more than 30% the expected average auction volume for the first two years of the following period before application of Article 1(3) of Decision [OPEU please insert number of this Decision when known], two-thirds of the difference between the volumes shall be deducted from auction volumes in the last year of the period and added in equal instalments to the volumes to be auctioned by Member States in the first two years of the following period."</p>	<p>"1a. <i>At the end of a trading period, any allowances remaining in the new entrants' reserve and any allowances not allocated due to closures or under the derogation for the electricity sector shall be considered "unallocated allowances". All such unallocated allowances shall be directly placed in the market stability reserve.</i> "</p>	<p><u>2.</u> In Article 10, the following paragraph <u>is</u> inserted:</p> <p>"1a. Where the volume of allowances to be auctioned by Member States in the last year of each period referred to in Article 13(1) exceeds by more than 30% the expected average auction volume for the first two years of the following period before application of Article 1(3) of Decision [OJ: please insert number of this Decision when known], two-thirds of the difference between the volumes shall be deducted from auction volumes in the last year of the period and added in equal instalments to the volumes to be auctioned by Member States in the first two years of the following period."</p>	<p>Linked to amendments 4, 11 and 18.</p> <p>The amendment is not acceptable as such but see compromise proposal in recital 3 (amendment 4) and Article 1 (1b) (amendment 11).</p>

Commission proposal	EP amendments	Council Position	Comments
Amendment 16 Article 2 – paragraph 1 – point 3 a (new) Directive 2003/87/EC - Article 10 – paragraph 3 – subparagraph 1 – introductory wording			
	<p><i>3a. In Article 10(3), the introductory wording of the first subparagraph is replaced by the following:</i></p> <p>"3. Member States shall determine the use of revenues generated from the auctioning of allowances. At least 50 % of the revenues generated from the auctioning of allowances referred to in paragraph 2, including all revenues from the auctioning referred to in paragraph 2, points (b) and (c), or the equivalent in financial value of these revenues, <i>shall</i> be used for one or more of the following:"</p>		Not acceptable.

Commission proposal	EP amendments	Council Position	Comments
<p>Amendment 17 Article 2 – paragraph 1 – point 3 b (new) Directive 2003/87/EC - Article 10 – paragraph 4 – subparagraph 1 a (new)</p>			
	<p><i>3b. In Article 10(4), the following subparagraph shall be inserted after the first subparagraph:</i></p> <p><i>"Where the Commission has carried out the adaptation referred to in the first subparagraph, an amount of allowances corresponding to the increase of allowances in 2019 and 2020 as set out in Annex IV to Commission Regulation (EU) No 1031/2010* shall be placed in the market stability reserve established by Decision [OPEU please insert number of this Decision when known]. (EU) No 1031/2010 *shall be placed in the market stability reserve established by Decision [OPEU please insert number of this Decision when known]."</i></p> <p><i>* 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</i></p>		<p>In substance corresponds to and is already covered by the Council text in Article 1(1a).</p>

Commission proposal	EP amendments	Council Position	Comments
	<i>trading within the Community (OJ L 302, 18.11.2010, p. 1)."</i>		
Amendment 18 Article 2 – paragraph 1 – point 3 c (new) Directive 2003/87/EC - Article 10a – paragraph 8 – subparagraph 2 a (new)			
	<i>3c. In Article 10a(8), the following subparagraph shall be inserted after the second subparagraph: "300 million allowances shall gradually be made available from the date of operation of the market stability reserve established by Decision [OPEU please insert number of this Decision when known] until 31 December 2025 in line with this paragraph and for breakthrough industrial innovation projects in the sectors listed in Annex I of this Directive on the basis of objective and transparent criteria referred to in this paragraph. Those 300 million allowances shall be taken from the unallocated allowances, as defined in Article 1(1b) of Decision [OPEU please insert number of this Decision when known]."</i>		<p>Not acceptable.</p> <p>Linked to amendments 4, 11 and 15.</p>

Commission proposal	EP amendments	Council Position	Comments
Article 2 - Paragraph 3 (former paragraph 4) - introductory sentence Directive 2003/87/EC Article 13 – paragraph 2			
<p>(4) In the second subparagraph of Article 13(2) the following sentence is added:</p> <p>“Similarly, allowances held in the market stability reserve established by Decision [<i>OPEU please insert number of this Decision when known</i>] and which are no longer valid shall be replaced by allowances which are valid for the current period.”</p>		<p>(3) In the second subparagraph of Article 13(2), the following sentence is added:</p> <p>“Similarly, allowances held in the market stability reserve established by Decision [<i>OJ: please insert number of this Decision when known</i>] and which are no longer valid shall be replaced by allowances which are valid for the current period.”</p>	Agreed in principle.
Amendment 19 Article 2 a (new)			
	<p style="text-align: center;">Article 2a</p> <p style="text-align: center;"><i>Review of Directive 2003/87/EC</i></p> <p><i>By ...+, the Commission shall review Directive 2003/87/EC, with a view to effectively protecting the competitiveness of Union industries at genuine risk of carbon leakage, introducing a more accurate allocation of allowances and incentivising carbon-efficient growth without contributing to the over-supply of allowances. The Commission shall thereby take into account the conclusions of the European</i></p>		See compromise proposal in recital 3b (new) (amendment 6).

Commission proposal	EP amendments	Council Position	Comments
	<p><i>Council of 23 and 24 October 2014, in particular with regard to carbon leakage provisions and the continuation of free allocations, better reflecting changing production levels and incentivising the most efficient performance. The Commission shall also consider a Union harmonised mechanism to compensate for indirect carbon costs resulting from this Directive so as so to ensure a level playing field at global and Union level. If appropriate the Commission shall, in accordance with the ordinary legislative procedure, submit a proposal to the European Parliament and the Council.</i></p> <hr/> <p><i>+ OJ: Please, insert the date: six months from the entry into force of this Decision.</i></p>		

Commission proposal	EP amendments	Council Position	Comments
Amendment 20 Article 3			
<p><i>By 31 December 2026</i>, the Commission shall on the basis of an analysis of the orderly functioning of the European carbon market review the market stability reserve and submit a proposal, where appropriate, to the European Parliament and to the Council. The review shall pay particular attention to the percentage figure for the determination of the number of allowances to be placed into the reserve according to Article 1(3) and the numerical value of the threshold for the total number of allowances in circulation set by Article 1(4).</p>	<p><i>Within three years of the date of operation of the market stability reserve</i>, the Commission shall on the basis of an analysis of the orderly functioning of the European carbon market review the market stability reserve and submit a proposal, where appropriate, to the European Parliament and to the Council. The review shall pay particular attention to the percentage figure for the determination of the number of allowances to be placed into the reserve according to Article 1(3) and the numerical value of the threshold for the total number of allowances in circulation set by Article 1(4). <i>In its review, the Commission shall also look into the impact of the market stability reserve on European industrial competitiveness and on the risk of carbon leakage. A periodic review of the settings of the market stability reserve, two years before the start of every new phase, is necessary in order to ensure the settings remain appropriate whilst preserving certainty for the market.</i></p>	<p><u>The Commission shall monitor the functioning of the reserve in the context of the report provided for in Article 10(5) of Directive 2003/87/EC. This report should consider relevant competitiveness effects, in particular in the industrial sector, including GDP, employment and investment indicators. Within three years of the start of the operation of the reserve and at five year intervals thereafter</u>, the Commission shall, on the basis of an analysis of the orderly functioning of the European carbon market, review the market stability reserve and submit a proposal, where appropriate, to the European Parliament and to the Council. <u>Each</u> review shall pay particular attention to the percentage figure for the determination of the number of allowances to be placed into the reserve pursuant to Article 1(3), <u>as well as</u> the numerical value of the threshold for the total number of allowances in circulation <u>and the number of allowances to be released from the reserve pursuant to Article 1(4) or (5).</u> <u>In its</u></p>	<p>The first part of the amendment is acceptable in substance as an addition to the Council text (see third column).</p> <p>The second part is partly acceptable.</p> <p>Linked to amendment 7.</p>

Commission proposal	EP amendments	Council Position	Comments
		<p><u>review, the Commission shall also look into the impact of the reserve on growth, jobs, the European Union’s industrial competitiveness and on the risk of carbon leakage.</u></p>	
Article 4			
<p>Article 10(1) of Directive 2003/87/EC as amended by Directive 2009/29/EC shall continue to apply until 31 December 2020</p>		<p>Article 10(1) of Directive 2003/87/EC as amended by Directive 2009/29/EC <u>of the European Parliament and of the Council</u>¹ shall continue to apply until 31 December 2020.</p> <p>¹ <u>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).</u></p>	<p>Agreed in principle.</p>