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From: General Secretariat of the Council
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Subject: 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
- Presidency text

With a view to the meeting of the Working Party on the Environment (WPE) on 13 January 2015,
delegations will find in the Annex a Presidency text on the above-mentioned proposal.

Changes or additions to the Commission proposal are underlined. Deletions are shown as [...]

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (0) Directive 2003/87/EC of the European Parliament and of the Council³ 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.

¹ OJ C, , p.

² OJ C, , p.

³ 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).

- (1) Article 10(5) of Directive 2003/87/EC provides that each year the Commission is to submit a report to the European Parliament and the Council on the functioning of the European carbon market.
- (2) The report from the Commission to the European Parliament and to the Council on the state of the European carbon market in 2012⁴ identified the need for measures in order to tackle structural supply-demand imbalances. The impact assessment on the 2030 climate and energy policy framework ⁵ 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 EU ETS more resilient to imbalances, a market stability reserve (the "reserve") should be established. To ensure regulatory certainty as regards auction supply in phase 3 and allow for some lead-time adjusting to the introduction of the design change, the market stability reserve should be established [as of phase 4 starting 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 it. Where the conditions are met, beginning [in 2021], 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 fewer than 400 million.

⁴ 16352/12 - COM(2012) 652 final.

⁵ Insert reference.

- (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 EU 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 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. Moreover, the planned reintroduction of 300 million allowances in 2019 and 600 million allowances in 2020, as determined in Commission Regulation (EU) No 176/2014⁶ pursuant to Article 10(4) of Directive 2003/87/EC⁷, 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.
- (4) The Commission should periodically 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.
- (5) Articles 10 and 13(2) of Directive 2003/87/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

⁶ 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)

⁷ 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)

Article 1

Market stability reserve

1. A market stability reserve is established [*date*], and shall operate from [1 January 2021].
 - 1a. The quantity of 900 million allowances reduced 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 market stability reserve.
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 ETS in respect of emissions up to 31 December of year *x*, minus the cumulative tonnes of verified emissions from installations under the EU ETS 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].
3. Each year beginning in [2021], a number of allowances equal to 12% of the total number of allowances in circulation in year *x-1*, as published in May of year *x*, shall be placed in the reserve, unless this number of allowances to be placed in the reserve would be fewer than 100 million. The allowances shall be placed in the reserve over the following 12 months.

4. In any year, if the total number of allowances in circulation is fewer than 400 million, 100 million allowances shall be released from the reserve. Where fewer than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.
5. In any year, if paragraph 4 is not applicable and measures are adopted under Article 29a of [...] Directive 2003/87/EC, 100 million allowances shall be released from the reserve. Where fewer than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.
6. Where action is taken pursuant to the preceding paragraphs [...], the auction calendars shall take into account the allowances placed in the reserve or to be released from the reserve.

Article 2

Amendments to Directive 2003/87/EC

Directive 2003/87/EC is amended as follows:

1. Article 10(1) is replaced by the following:

“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 [*OPEU please insert number of this Decision when known*] of the European Parliament and of the Council (*).”

2. In Article 10, the following paragraph is inserted:

“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.”

3. In the second subparagraph of Article 13(2) the following sentence is added:

“Similarly, allowances held in the market stability reserve established by Decision [*OPEU please insert number of this Decision when known*] and which are no longer valid shall be replaced by allowances which are valid for the current period.”

Article 3

Review

Within [three] years of the establishment of the reserve and at [five] year intervals thereafter, the Commission shall, on the basis of an analysis of the orderly functioning of the European carbon market, review the market stability reserve and submit a proposal, where appropriate, to the European Parliament and to the Council. Each review shall pay particular attention to the percentage figure for the determination of the number of allowances to be placed into the reserve pursuant to Article 1(3) and the numerical value of the threshold for the total number of allowances in circulation set by Article 1(4).

Article 4

Transitional provision

Article 10(1) of Directive 2003/87/EC as amended by Directive 2009/29/EC of the European Parliament and of the Council⁸ shall continue to apply until 31 December 2020.

Article 5

Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the European Parliament

For the Council

The President

The President

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⁸ 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).