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MEETING DOCUMENT

From: General Secretariat of the Council
To: Working Party on the Environment
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No. prev. doc.: 7566/15 CLIMA 37 ENV 194 MI 195 IND 49 ENER 112 ECOFIN 225
TRANS 115 COMPET 132 CODEC 424

No. Cion doc.: 5654/14 CLIMA 7 ENV 62 MI 71 IND 25 ENER 29 ECOFIN 69 TRANS 33
COMPET 46 CODEC 17 - COM(2014) 20

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 proposals

With a view to discussions at the Working Party on the Environment on 21 April 2015, delegations will find in the Annex new drafting proposals from the Presidency in the context of preparations for the next informal trilogue. New or changed text (compared to the third column of doc. 7566/15) is marked in **bold and underlined**.

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I. Carbon leakage

1. Revision of Directive 2003/87/EC
– *Amendment 6 - recital 3b (new)*

(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 the strategic guidance provided by the European Council, 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.

2. MSR review
– *Amendment 7 - Recital 4*

(4) The Commission should monitor the functioning of the reserve in the context of the annual carbon market report. In addition, the Commission should, within three years of the date of operation of the reserve and periodically thereafter 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 and releasing them are appropriate with regard to the aim pursued to tackle structural supply-demand imbalances and of making the auction supply of allowances more flexible. 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 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.

- Amendment 20 - Article 3

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. Within three years of the start of the operation of the reserve and at five year intervals thereafter, the Commission shall, on the basis of an analysis of the orderly functioning of the European carbon market, review the 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), as well as the numerical value of the threshold for the total number of allowances in circulation and the number of allowances to be released from the reserve pursuant to Article 1(4) or (5). **In its 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.**

II. Unallocated allowances

- Amendment 4 - Recital 3

(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 EU ETS. In particular, the implementation 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. **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 because of the application of Article 10a(19) and (20) of that Directive [...] should be placed in the reserve in 2020. The Commission should review Directive 2003/87/EC in relation to those allowances and, if appropriate, submit a proposal to the European Parliament and to the Council on options for further action, including whether those allowances should remain in the reserve, be auctioned by Member States, be cancelled or used for other purposes, such as for addressing the risk of carbon leakage, for breakthrough industrial innovation projects or the modernisation fund.**

- Amendment 11 - Article 1(1b)(new)

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.

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III. Scope of the MSR

- *Amendment 13 - Article 1 (3)*

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 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, unless this number of allowances to be placed in the reserve would be fewer than 100 million.

- *Article 1 (4)*

4. In any year, if the total number of allowances in circulation in year $x-1$, as published in May of year x , is fewer than 400 million, 100 million allowances shall be released from the reserve and added to the volume of allowances to be auctioned **by the Member States under Article 10(2) of Directive 2003/87/EC.** Where fewer than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph

- *Article 1 (5)*

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 and added to the volume of allowances to be auctioned **by the Member States under Article 10(2) of Directive 2003/87/EC.** Where fewer than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.