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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 - Preparation for the informal trilogue

I. Introduction

1. The Commission submitted its proposal to the Council and the European Parliament on 22 January 2014. The proposal is based on Article 192(1) of the Treaty. The aim of the proposal is to establish a Market Stability Reserve (MSR) for the EU Emissions Trading System (ETS) in order to address the current market imbalance in the ETS and to improve its resilience to future unexpected and sudden demand shocks.

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2. The European Economic and Social Committee adopted its opinion on the proposal on 4 June 2014¹. The Committee of the Regions decided not to give an opinion².
3. In the European Parliament, Mr Ivo Belet (EPP) was nominated Rapporteur for the Committee on the Environment, Public Health and Food Safety (ENVI) on 10 July 2014. The ENVI Committee adopted its report on 24 February 2015, in which it suggested 20 amendments to the Commission proposal.
4. In their informal contacts, the Presidency and the Rapporteur have agreed to open negotiations to explore the possibilities for a first reading agreement. The first informal trilogue is planned to take place on 30 March 2015.

II. Work in the Council

5. The proposal and the accompanying impact assessment were first discussed by the Working Party on the Environment (WPE) during the Hellenic Presidency. Discussions continued at several WPE meetings during the Italian Presidency. The Presidency gave a report on the state of play on the proposal to the Council (Environment) on 17 December 2014.³
6. Under the Latvian Presidency, the proposal has been discussed at six WPE meetings. During the last two meetings, on 10 and 16 March 2015, the WPE examined the ENVI amendments, together with Presidency suggestions for a Council position included in a four-column document, prepared by the Presidency on the basis of previous discussions and written comments submitted by delegations.

¹ 7330/15 EESC-0800-2014, OJ C 424, 26.11.2014, p. 46.

² Letter dated 13 March 2014. DG E 1B

³ Doc. 16360/14.

III. Outline of the draft amendments

7. The second column of the four-column table in the Annex to this note contains the outcome of the vote in the ENVI Committee. The main issues addressed by the amendments are summarised below:
- Date of establishment/start of operation of the MSR: Amendments 3 (part of second last sentence), 9, 14.
 - Transfer of back-loaded allowances into the MSR: Amendments 5, 10, 17.
 - Placing of so-called "unallocated allowances" in the MSR: Amendments 4, 11, 15; making 300 million of such allowances available for industrial innovation projects: Amendment 18.
 - Carbon leakage and industrial competitiveness issues (in the context of the review of the ETS Directive and the periodic review of the MSR): Amendments 6 and 19, 7 and 20 respectively.

The above-mentioned issues are expected to figure most prominently in the informal negotiations with the EP. The other EP amendments concern the aims of the proposal (Amendments 1, 2, part of 3, 8), the timeline for releasing/placing allowances from/into the MSR (Amendments 3 - part of second last sentence), 12, 13); use of auctioning revenues (Amendment 16) and aspects of timing/parameters in the MSR review (part of Amendments 7 and 20).

IV. State of play

8. The latest Presidency compromise text is set out in the third column of the table in the Annex to this note⁴. Comments in relation to the ENVI amendments are set out in the fourth column⁵.

⁴ Changes compared to the Commission proposal are underlined. Changes compared to the previous Presidency compromise text (doc. 7075/15) are **bold and underlined**. Deletions are indicated by [...].

⁵ ENVI amendments to the Commission proposal are indicated in *bold italics*.

9. In the Presidency's view, the current compromise proposal strikes the appropriate balance between the delegations' positions on the most sensitive issues, i.e., the start of operation of the MSR, and the treatment of back-loaded and unallocated allowances. In the latest Presidency proposal, further compromises are suggested on the following issues:

- Start of operation of the MSR - Article 1(1) and consequential changes in Article 1(3), Article 2(1) and recital 2: The Presidency suggests that the MSR shall operate from no later than 1 January 2021.
- Treatment of unallocated allowances pursuant to ETS Directive Article 10a(7), (19) and (20) - recital 3: The Presidency proposal further specifies that the Commission's assessment, which is referred to in the recital, will be part of the upcoming review of the ETS Directive.

In addition, in response to specific comments, the Presidency suggests to add, in recital 2, a reference to impacts on jobs and growth, as well as a technical clarification concerning auctioning calendars. The wording in recital 4 concerning the review of the MSR has also been slightly adjusted for consistency with Article 3.

It is understood that all delegations have a scrutiny reservation on the latest Presidency suggestions.

V. Conclusion

10. The Permanent Representatives Committee is invited to give the Presidency a mandate to start informal negotiations towards a first-reading agreement with the European Parliament on the basis of the Presidency suggestions for a Council position set out in the third column of the table in the Annex. The Presidency will report on the outcome of the first informal trilogue and propose, as necessary, an adjusted mandate to be discussed by the Committee.
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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	Presidency suggestions for a 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> <hr/> <p>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>	
Amendment 1 Recital -1 (new)			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
	<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><u>(-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.</u></p>	<p>It is suggested to accept this amendment.</p>
Recital 1			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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> <hr/> <p>–</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>Amendment 2 Recital 1 a (new)</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
	<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>		<p>It is suggested to reject the amendment.</p>
<p>Amendment 3 Recital 2</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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</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</p>	<p>(2) The report from the Commission to the European Parliament and <u>to the Council</u> 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</u></p>	<p>The first part of the amendment could be partly accepted.</p> <p>The part of the amendment concerning the starting year of the operation of the reserve is not acceptable as such (see compromise proposal in third column).</p> <p>The amendment of the reference year (x-1) is acceptable.</p>

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Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
Amendment 4 Recital 3			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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>7330/15 ANNEX</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 <u>being</u> 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>The Commission should, as part of the upcoming revision of Directive 2003/87/EC, assess whether allowances not allocated to installations pursuant to Article 10a(7) of</u></p> <p>DG E 1B</p>	<p>Linked to amendments 11, 15 and 18.</p> <p>See compromise proposal in third column.</p>

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
Amendment 5 Recital 3 a (new)			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<p>7330/15 ANNEX</p>	<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> <hr/> <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> <hr/> <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</u></p>	<p>The amendment is acceptable in substance but it is suggested to keep the current Presidency text.</p> <p>DG E 1B</p>

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
Amendment 6 Recital 3 b (new)			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
7330/15 ANNEX	<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</i></p>	DG E 1B	<p>It is suggested to reject this amendment. The issue should be addressed as part of the wider review of the ETS Directive.</p> <p>Linked to amendment 19.</p>

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
Amendment 7 Recital 4			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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>7330/15 ANNEX</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. 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>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</u> DG E 1B <u>volumes, as well as the percentage rate applied</u></p>	<p>The first part of the amendment is acceptable in substance as an addition to the Presidency text.</p> <p>The second part of the amendment is acceptable in substance (see the Presidency text).</p> <p>It is suggested to reject the last part of the amendment (linked to amendment 20).</p>

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
Amendment 8 Recital 5			
(5) <i>Articles 10 and 13(2) of</i> Directive 2003/87/EC should therefore be amended accordingly,	(5) Directive 2003/87/EC should therefore be amended accordingly,	(5) [...] Directive 2003/87/EC should therefore be amended accordingly,	It is suggested to accept this amendment.
Amendment 9 Article 1 – paragraph 1			
1. A market stability reserve is established, and shall operate from 1 January <i>2021</i> .	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> , and shall operate from <u>no later than</u> 1 January 2021.	It is suggested to accept the first part of the amendment. The second part is not acceptable (but see compromise proposal in third column).
Amendment 10 Article 1 – paragraph 1 a (new)			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
	<p><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></p> <hr/> <p><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></p>	<p><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></p>	<p>The amendment corresponds in substance to the Presidency text.</p>
<p>Amendment 11 Article 1 – paragraph 1 b (new)</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
	<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>Linked to amendments 4, 15 and 18.</p> <p>The amendment is not acceptable as such but see compromise proposal in recital 3 (amendment 4).</p>
<p>Amendment 12 Article 1 – paragraph 2</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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</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</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</u> year [...], 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</u> year [...], 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</p>	<p>It is suggested to reject this amendment.</p>

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Commission proposal	EP amendments	Presidency suggestions for a 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 beginning no later than 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 <u>deducted from the volume of allowances to be auctioned and shall be placed in the reserve</u>, unless this number of allowances to be placed in the reserve would be <u>fewer</u> than 100 million.</p>	<p>See the compromise proposal in third column concerning the first part of the amendment.</p> <p>The second part of the amendment corresponds in spirit to the Presidency text in recital 2 and Article 1(6).</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>7330/15 ANNEX</p>		<p>4. In any year, if the total number of allowances in circulation <u>in year x-1, as published in May of year x</u>, is <u>fewer than</u> 400 million, 100 million allowances shall be released from the reserve <u>and added to the volume of allowances to be auctioned</u>. <u>Where fewer than 100 million allowances are in the reserve</u>, all allowances in the reserve shall be released under this paragraph.</p> <p style="text-align: right;">DG E 1B</p>	
Article 1 – paragraph 5			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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.</u> <u>Where fewer than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.</u></p>	
<p>Article 1 – paragraph 6</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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. 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>	
<p>Amendment 14 Article 2 – paragraph 1 (formerly 2) Directive 2003/87/EC - Article 10 – paragraph 1</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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>no later than</u> 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>OJ: please insert number of this Decision when known and add footnote</i>] of the European Parliament and of the Council(*)."</p>	<p>The amendment is not acceptable as such but see compromise proposal in third column.</p>
<p>Amendment 15 Article 2 – paragraph 2 (formerly 3) Directive 2003/87/EC - Article 10 – paragraph 1a</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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).</p>
<p>Amendment 16 Article 2 – paragraph 1 – point 3 a (new) Directive 2003/87/EC - Article 10 – paragraph 3 – subparagraph 1 – introductory wording</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
	<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>		<p>It is suggested to reject this amendment as it is not relevant to the MSR.</p>
<p>Amendment 17 Article 2 – paragraph 1 – point 3 b (new) Directive 2003/87/EC - Article 10 – paragraph 4 – subparagraph 1 a (new)</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<p>7330/15 ANNEX</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> <hr/> <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 2002/27/EC of the</i></p>		<p>The substance of the amendment corresponds to and is already covered by the Presidency text in Article 1(1a).</p> <p>DG E 1B</p>

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
Amendment 18 Article 2 – paragraph 1 – point 3 c (new) Directive 2003/87/EC - Article 10a – paragraph 8 – subparagraph 2 a (new)			
	<p><i>3c. In Article 10a(8), the following subparagraph shall be inserted after the second subparagraph:</i></p> <p><i>"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>		<p>It is suggested to reject this amendment.</p> <p>Linked to amendments 4, 11 and 15.</p>
7330/15	Article 2 - Paragraph 3 (former paragraph 4) - introductory sentence Directive 2003/87/EC - Article 13 – paragraph 2		

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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>	
<p>Amendment 19 Article 2 a (new)</p>			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<p>7330/15 ANNEX</p>	<p><i>Article 2a</i></p> <p><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 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</i></p>	<p>DG E 1B</p>	<p>It is suggested to reject this amendment.</p> <p>Linked to amendment 6.</p>

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
Amendment 20 Article 3			

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
<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>7330/15 ANNEX</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</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. 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 and <u>the number of allowances to be released from the reserve pursuant to Article 1(4) or (5).</u></p> <p>DG E 1B</p>	<p>The first part corresponds in substance to the Presidency text.</p> <p>It is suggested to reject the second part (linked to amendment 7).</p>

Commission proposal	EP amendments	Presidency suggestions for a Council Position	Comments
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> <hr/> <p><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>	