

# EURELECTRIC proposals for amendments to the European Commission's legislative proposal to revise the EU ETS Directive

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May 2016

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***EURELECTRIC is the voice of the electricity industry in Europe.***

*We speak for more than 3,500 companies in power generation, distribution, and supply.*

***We Stand For:***

***Carbon-neutral electricity by 2050***

We have committed to making Europe's electricity cleaner. To deliver, we need to make use of **all low-carbon technologies**: more renewables, but also clean coal and gas, and nuclear. Efficient electric technologies in **transport and buildings**, combined with the development of smart grids and a major push in **energy efficiency** play a key role in reducing fossil fuel consumption and making our electricity more sustainable.

***Competitive electricity for our customers***

We support well-functioning, distortion-free **energy and carbon markets as** the best way to produce electricity and reduce emissions cost-efficiently. Integrated EU-wide electricity and gas markets are also crucial to offer our customers the **full benefits of liberalisation**: they ensure the best use of generation resources, improve **security of supply**, allow full EU-wide competition, and increase **customer choice**.

***Continent-wide electricity through a coherent European approach***

Europe's energy and climate challenges can only be solved by **European – or even global – policies**, not incoherent national measures. Such policies should complement, not contradict each other: coherent and integrated approaches reduce costs. This will encourage **effective investment** to ensure a sustainable and reliable electricity supply for Europe's businesses and consumers.

***EURELECTRIC. Electricity for Europe.***

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## Introduction

EURELECTRIC welcomes the Commission's proposal to revise the EU ETS Directive as it puts the EU on course to take important steps on the path towards the cost-effective decarbonisation of the European economy. However, the success of the reformed EU ETS will depend on ensuring full consistency and coherence between the elements and targets of the 2030 Framework, as well as developing an adequate governance framework which enables the achievement of these objectives.

EURELECTRIC believes that additional work is needed in order to make the EU ETS the main instrument to provide incentives to reduce greenhouse gas emissions, improve energy efficiency and to invest in low carbon technologies. EURELECTRIC is therefore proposing the following set of amendments to the Commission's legislative proposal on the review of the EU ETS Directive with justifications on how to improve and strengthen the mechanism.

## Amendment Proposals

*Text proposed by the Commission*

*Amendment proposal by EURELECTRIC*

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### Amendment 1

#### Article 10 - paragraph 5

The Commission shall monitor the functioning of the European carbon market. Each year, it shall submit a report to the European Parliament and to the Council on the functioning of the carbon market including the implementation of the auctions, liquidity and the volumes traded. If necessary, Member States shall ensure that any relevant information is submitted to the Commission at least two months before the Commission adopts the report.

The Commission shall monitor the functioning of the European carbon market. Each year, it shall submit a report to the European Parliament and to the Council on the functioning of the carbon market including the implementation of the auctions, liquidity and the volumes traded. **The report shall also address the interaction between the EU ETS and other climate and energy measures at European and national level, and shall analyse the implications of various policy instruments on the level of demand for EU allowances and its consequences on the supply-demand balance in the carbon market.** If necessary, Member States shall ensure that any relevant information is submitted to the Commission at least two months before the Commission adopts the report.

### *Justification*

*In order for the EU ETS to function well, negative interaction and overlap between different policy instruments should be avoided. The implementation of national measures in the trading sector, on top of the EU ETS, leads to emission reductions nationally but not at the EU level where GHG emissions are only redistributed between countries and sectors, thus resulting in a downward pressure on the carbon price. It is therefore necessary that the European Commission describes and analyses this in the yearly carbon market report, accompanied by proposals for solutions to any problem identified.*

*Text proposed by Commission*

*Amendment proposal by EURELECTRIC*

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### Amendment 2

#### Article 10a - paragraph 5

In order to respect the auctioning share set out in Article 10, the sum of free allocations in every year where the sum of free allocations does not reach the maximum level that respects the Member State auctioning share, the remaining allowances up to that level shall be used to prevent or limit reduction of free allocations to respect the Member State auctioning share in later years. Where, nonetheless, the maximum level is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner.

In order to respect the auctioning share set out in Article 10, the sum of free allocations in every year where the sum of free allocations does not reach the maximum level that respects the Member State auctioning share, the remaining allowances up to that level shall be used to prevent or limit reduction of free allocations to respect the Member State auctioning share in later years. Where, nonetheless, the maximum level is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner **and should not be used for free allocations that are subject to the linear reduction factor referred to in Article 9.**

### *Justification*

*Clarification in the text is needed to ensure that CHP heat, which under the current regime is subject to linear reduction factor only, is not additionally subject to the cross-sectoral correction factor in Phase IV of the ETS. The application of both reduction factors to existing or new CHP plants would lead to double regulation and unfair treatment of CHP plants against heat only boilers subject only to one reduction factor.*

Amendment 3

Article 10a - paragraph 7

10a(7) Allowances from the maximum amount referred to Article 10a(5) of this Directive which were not allocated for free up to 2020 shall be **set aside for new entrants and significant production increases**, together with 250 million allowances placed in the market stability reserve pursuant to Article 1(3) of Decision (EU) 2015/... of the European Parliament and of the Council(\*)\*

From 2021, allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the reserve.

Allocations shall be adjusted by the linear factor referred to in Article 9.

No free allocation shall be made in respect of any electricity production by new entrants.

**3% of the Community wide quantity of allowances issued in accordance with Articles 9 and 9a over the period from 2021 to 2030** shall be set aside for new entrants and significant production increases.

From 2021, allowances not allocated to installations because of the application of paragraphs 19 and 20 shall be added to the **market stability** reserve.

Allocations shall be adjusted by the linear factor referred to in Article 9.

No free allocation **from the new entrants reserve** shall be made in respect of any electricity production by new entrants.

**Non allocated allowances from the new entrants reserve should be transferred to the market stability reserve at the end of a trading period.**

*Justification*

*The New Entrants Reserve (NER) should be built up gradually, in a similar manner to Phase III, by stipulating a fixed share of 3% of the annual allowances to be issued in Phase IV. If the NER were to be created with allowances from the Market Stability Reserve (MSR), the cap for Phase IV would be undermined already from the start. Non allocated NER allowances should be transferred to the MSR at the end of a trading period. We therefore recommend that all unused allowances from Phase III should be placed directly into the MSR (as also foreseen by the Decision on establishing the MSR). The initial endowment of the NER at the beginning of Phase IV should thus exclusively come from allowances set aside for free allocation under Phase IV, but not from Phase III unallocated allowances.*

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Amendment 4

Article 10a - paragraph 8 - subparagraph 1

400 million allowances shall be available to **support** innovation in low-carbon technologies and processes in industrial sectors listed in Annex I, and to help stimulate the construction and operation of commercial demonstration projects that aim at the environmentally safe capture and geological storage (CCS) of CO<sub>2</sub> as well as demonstration projects of innovative renewable energy technologies, in the territory of the Union.

400 million allowances shall be available to **leverage investments, using a variety of instruments managed by the European Investment Bank, in** innovation in low- carbon technologies and processes in industrial sectors listed in Annex I, and to help stimulate the construction and operation of commercial demonstration projects that aim at the environmentally safe capture and geological storage (CCS) of CO<sub>2</sub> as well as demonstration projects of innovative renewable energy technologies, **carbon capture and use (CCU), energy conversion and storage, as well as electric battery development,** in the territory of the Union.

*Justification*

*The EIB should be enabled to use a variety of financial instruments to accelerate innovative low-carbon investments, including grants, loans and equity participation. Innovative technologies for carbon capture and use (CCU), energy conversion and storage ("power-to-X") and electric battery developments should also be eligible for receiving funding from the innovation fund.*

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Amendment 5

Article 10a - paragraph 8 - subparagraph 4a (new)

New

**Monetisation of allowances shall start only after the second year of Phase IV and be made gradual throughout the Phase IV.**

*Justification*

*The monetisation of the Innovation Fund carries the risk of erasing the intended effect of the Market Stability Reserve. A predictable timetable for the monetisation of the allowances in the Innovation Fund is essential. Gradual and backloaded auctioning of the allowances in the Innovation Fund is necessary throughout Phase IV.*

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Amendment 6

Article 10b - paragraph 4 (new)

New

**In view of the global five year ambition review cycle agreed in the Paris Agreement, the Commission shall review the carbon leakage provisions and the ambition level in line with the Paris Agreement's ratchet up mechanism, and if appropriate submit a legislative proposal to the European Parliament and to the Council that takes into account cost-efficient sharing of additional reduction efforts between the ETS and the non-ETS sectors.**

### *Justification*

*The Paris Agreement states that the Parties to the Agreement shall periodically take stock of the implementation of the Agreement to assess the collective progress towards achieving the purpose of the Agreement and its long-term goals. According to the agreement reached in Paris, Parties whose intended nationally determined contribution (INDC) contains a time frame up to 2030 should communicate or update by 2020 these contributions and do so every five years thereafter. The proposed amendment is necessary in order to enable the required adjustments to this Directive which may result following the implementation of the Paris Agreement.*

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#### *Text proposed by the Commission*

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#### *Amendment proposal by EURELECTRIC*

### Amendment 7

#### Article 10c - paragraph 1

By derogation from Article 10a(1) to (5), Member States which had in 2013 a GDP per capita in € at market prices below 60% of the Union average may give a transitional free allocation to **installations for electricity production** for the modernisation of the energy sector.

By derogation from Article 10a(1) to (5), Member States which had in 2013 a GDP per capita in € at market prices below 60% of the Union average may give a transitional free allocation to **electricity generators** for the modernisation of the energy sector.

### *Justification*

*This change helps to ensure that cogeneration plants, which produce heat and electricity, are also eligible to free allocation of allowances.*



Amendment 8

Article 10c - paragraph 1a (new)

New

Member States concerned shall select investments to be financed with free allocation:

- (a) through a competitive bidding process referred to in paragraph 2, or
- (b) based on the National Investment Plans as well as criteria and rules referred to in paragraph 2(3), or
- (c) a combination of both methods mentioned above.

The Commission shall be informed about the chosen method by 1 January 2018.

Justification

*The current system should be improved to ensure increased transparency in the allocation of funds. The current approach (that investment projects under national investment plans should meet certain criteria as laid down in the Guidance document on the optional application of Art. 10c of the Directive 2003/97/EC) can be maintained and complemented by the bidding process as proposed.*

## Amendment 9

## Article 10c - paragraph 2

The Member State concerned shall organise a competitive bidding process for projects with a total amount of investment exceeding €10 million to select the investments to be financed with free allocation. This competitive bidding process shall:

- (a) comply with the principles of transparency, non-discrimination, equal treatment and sound financial management;
- (b) ensure that only projects which contribute to the diversification of their energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure, clean technologies and modernisation of the energy production, transmission and distribution sectors are eligible to bid;
- (c) define clear, objective, transparent and non-discriminatory selection criteria for the ranking of projects, so as to ensure that projects are selected which:
  - (i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of emission reduction and realise a pre-determined significant level of CO<sub>2</sub> reductions;
  - (ii) are additional, clearly respond to replacement and modernisation needs and do not supply a market-driven increase in energy demand;
  - (iii) offer best value for money;

By 30 June 2019, any Member State intending to make use of optional free allocation shall publish a detailed national framework setting out the competitive bidding process and selection criteria for public comment.

The competitive bidding process **is open to project developers, electricity generators and operators modernising their electricity generation capacity and network infrastructure in a Member State concerned and** shall:

- (a) comply with the principles of transparency, non-discrimination, equal treatment and sound financial management;
- (b) ensure that only projects which contribute to **improvement of their energy security**, the diversification of their energy mix and sources of supply, the necessary restructuring, environmental upgrading and retrofitting of the infrastructure, clean technologies and modernisation of the energy production, transmission and distribution sectors are eligible to bid;
- (c) define clear, objective, transparent and non-discriminatory selection criteria for the ranking of projects, so as to ensure that projects are selected which:
  - (i) on the basis of a cost-benefit analysis, ensure a net positive gain in terms of **CO<sub>2</sub>** emission reduction.
  - (ii) **have been undertaken since 24 October 2014 meaning that have obtained all relevant corporate decisions, and are additional,** clearly respond to replacement and modernisation needs, and do not supply a market-driven increase in energy demand;
  - (iii) offer best value for money;

By 30 June **2018**, any Member State intending to make use of optional free allocation through an open bidding shall publish a detailed national framework setting out the competitive bidding process and selection criteria for public comment, **and ensure that the framework is in**

place by 31 December 2018 so that the first bidding process could take place by 30 June 2019 at the latest. The bidding process and selection criteria shall be country specific, agreed and adopted at the national level, and made public.

#### *Justification*

*The current system should be improved to ensure increased transparency in the allocation of funds. The current approach (that investment projects under national investment plans should meet certain criteria as laid down in the Guidance document on the optional application of Art. 10c of the Directive 2003/97/EC) can be maintained and complemented by the bidding process as proposed.*

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*Text proposed by the Commission*

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*Amendment proposal by EURELECTRIC*

#### Amendment 10

##### Article 10c - paragraph 2 - subparagraph 3

Where investments with a value of less than €10 million are supported with free allocation, the Member State shall select projects based on objective and transparent criteria. The results of this selection process shall be published for public comment. On this basis, the Member State concerned shall establish and submit a list of investments to the Commission by 30 June 2019.

The investments to be financed through free allocation under the National Investment Plans shall be based on objective and transparent criteria taking into account:

- (a) technological neutrality;
- (b) environmental retrofitting and upgrading of energy infrastructure including electricity storage;
- (c) clean technologies;
- (d) diversification of energy mix and sources of supply;
- (e) modernisation and development of electric grid and related infrastructure;
- (f) greenhouse gas emissions reductions.
- (g) respect for competition, alignment with the internal energy market, and especially ensure that they do not disturb cross-border trade and regional approaches.

Investments undertaken since 24 October 2014 that have obtained all relevant corporate decisions may be counted for this purpose.

The results of this selection process shall be published for public comment. On this basis,

the Member State concerned shall establish and submit a list of investments, along with criteria for its update, to the Commission by 30 September 2019.

The Commission shall assess the list of investments by 31 March 2020. Within 6 months from the receipt of the list of investments from the Member State, the Commission may request additional clarifications with regard to the submitted information. The Commission may reject individual investments. A negative decision shall be duly justified by providing clear reasons for rejection based on proof of the lack of eligibility of the investment.

The list of investments should be updated in 2023 and 2027, and submitted to the Commission along with the report referred to in paragraph 6, respectively in 2024 and 2028.

If a Member State concerned decides to apply both methods simultaneously in the selection of investments to be financed by free allocation, it may apply a threshold to determine which investments qualify for a competitive bidding process. The preferred level of such a threshold amounts to €15 million. In such a case, projects with a value below the threshold shall be selected based on the criteria set in this paragraph.

#### *Justification*

*The derogation mechanism should serve the modernisation of the electricity sector and limit the costs of the transformation towards the future low-carbon power system. The derogation was also supposed to have a measurable impact on electricity prices as compared to 100% auctioning. It is important to allow for the possibility of using the currently used National Investment Plans in Phase III also in Phase IV for Member States preferring this option over open bidding, or creating an opportunity to use a combination of the two. The bidding process should thus only be considered as complementary to the National Investment Plans and the threshold should be increased to €15 million in accordance with Commission Regulation No. 651/2014.*

*The National Investment Plans should be subject to criteria that improve transparency and guarantee both cost efficiency and effectiveness of the investments delivered. In this way they can greatly increase certainty for investors and help them in planning ahead accordingly. The incentive effect (additionality principle) should be replaced with a boundary date of 24 October 2014 as this was the first date after the adoption of the European Council conclusions when investors obtained legitimate certainty that free allocation would continue after 2020. The proposed timeline for the assessment of projects can ensure that investors know ahead of time whether the undertaken investments can recuperate some of their cost through this mechanism before the start of the next trading phase.*

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*Text proposed by the Commission*

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*Amendment proposal by EURELECTRIC*

#### Amendment 11

##### Article 10c - paragraph 4

Transitional free allocations shall be deducted from the quantity of allowances that the Member State would otherwise auction. The total free allocation shall be no more than 40% of the allowances which the Member State concerned receives in the period 2021-30 pursuant to Article 10(2)(a) spread out in equal annual volumes over the period from 2021-30.

Transitional free allocations shall be deducted from the quantity of allowances that the Member State would otherwise auction. The total free allocation shall be no more than 40% of the allowances which the Member State concerned receives in the period 2021-30 pursuant to Article 10(2)(a) spread out in equal annual volumes over the period from 2021-30 **subject to the principle that free allocation that is not covered by the necessary expenditure in any given year shall be carried over and claimed during following years of the 2021-30 period when appropriate expenditure is incurred. Other ways of distributing the total number of allowances dedicated for the free allocation over the period 2021-30 are allowed provided that they are duly justified.**

#### *Justification*

*This amendment should provide investors with necessary certainty that no regulatory intervention to the EUA's market will impact the EU ETS rules during Phase IV with regards to free allocation. As the free allocation is connected with energy infrastructure investments, it is therefore justified to effectively use the free allocation in the period when the respective expenditure is incurred.*

Amendment 12

Article 10c - paragraph 5

Allocations to **operators** shall be made upon demonstration **that** an investment selected **according to the rules of the competitive bidding process** has been carried out.

**Free allocation *of allowances* to *operators* shall be made *annually* upon demonstration *of incurred expenditure, at the level of a capital group, for* an investment *included in the list of investments referred to in paragraph 2.***

**The balance between amount of expenditure incurred and free allocation of allowances shall be closed by 31 December 2030.**

**Free allocations to electricity generators shall be based on an ex-ante efficiency benchmark.**

**The ex-ante efficiency benchmark shall reflect the shares of the different fuels in electricity production in the Member State concerned.**

**The free allocations to individual electricity generators for period 2021-30 shall be determined and published by each of the Member States concerned by 30 September 2019. The allocations along with the list of electricity generators should be updated in 2023 and 2027. The updated list of electricity generators shall be submitted to the Commission by 1 January 2024 and 2028 respectively.**

*Justification*

*This amendment is in line with the Commissions guidance on implementation of the EU ETS and the proposed changes address the technical details to avoid any uncertainty in the allocation method by basing it on the method used in the current Phase. Harmonised ex-ante efficiency benchmark and free allocations publication date are imposed to avoid unnecessary market distortions, which could be potentially caused by the free allowances allocation.*

Amendment 13

Article 10c - paragraph 6

Member States shall require benefiting electricity generators and network operators to report **by 28 February of** each year on the implementation of their selected investments. Member States shall report **on this** to the Commission, and the Commission shall make such reports public;

Member States shall require benefiting electricity generators and network operators to report each year on the implementation of their selected investments. Member States shall report annually **by 31 March** to the Commission **on the balance of free allocation and investment expenditure incurred**, and the Commission shall make such reports public.

*Justification*

*This amendment aims at facilitating reporting for investors and increase transparency. The date is adjusted in line with the verification and accreditation date in Article 15.*

Amendment 14

Article 10d - paragraph 2

The fund shall also finance small-scale investment projects in the modernisation of energy systems and energy efficiency. To this end, the **investment board** shall develop **guidelines** and investment selection criteria specific to such projects.

The fund shall also finance small-scale investment projects in the modernisation of energy systems and energy efficiency. To this end, the **beneficiary Member States** shall develop **rules** and investment selection criteria specific to such projects, **in line with the objectives of the fund and the guidance elaborated by an advisory board referred to in paragraph 4.**

*Justification*

*The Modernisation Fund should be principally governed by the beneficiary Member States with a support of the advisory board as envisaged by the European Council Conclusions from October 2014. To this end, the beneficiary Member States should be able to draw the list of projects eligible for funding.*

Amendment 15

Article 10d - paragraph 3

The funds shall be distributed based on a combination of a 50% share of verified emissions and a 50% share of GDP criteria, leading to the distribution set out in Annex IIb.

**The EIB is responsible for the monetisation of the 2% allowances referred to in Article 10 in equal volumes each year of the period 2021-30. Defining the monetisation calendar should be carried out in consultation with the beneficiary Member States.** The funds shall be distributed **among the beneficiary Member States** based on a combination of a 50% share of verified emissions and a 50% share of GDP criteria, leading to the distribution set out in Annex IIb;

*Justification*

*The European Investment Bank's involvement in the governance of the Modernisation Fund should be principally restricted to providing technical support through monetisation of allowances. A well-defined calendar of sales developed in agreement with the beneficiary Member States would ensure transparency for investors and help to generate adequate profits that can finance investments carried out throughout the entire Phase IV.*



## Amendment 16

## Article 10d - paragraph 4

The fund shall be governed by an investment board and a management committee, which shall be composed of representatives from the beneficiary Member States, the Commission, the EIB and three representatives elected by the other Member States for a period of 5 years. The investment board shall be responsible to determine an Union-level investment policy, appropriate financing instruments and investment selection criteria. The management committee shall be responsible for the day-to-day management of the fund.

The investment board shall elect a representative from the Commission as chairman. The investment board shall strive to take decisions by consensus. If the investment board is not able to decide by consensus within a deadline set by the chairman, the investment board shall take a decision by simple majority.

The management committee shall be composed of representatives appointed by the investment board. Decisions of the management committee shall be taken by simple majority.

If the EIB recommends not financing an investment and provides reasons for this recommendation, a decision shall only be adopted if a majority of two-thirds of all members vote in favour. The Member State in which the investment will take place and the EIB shall not be entitled to cast a vote in this case. For small projects funded through loans provided by a national promotional bank or through grants contributing to the implementation of a national programme serving specific objectives in line with the objectives of the Modernisation Fund, provided that not more than 10% of the Member States' share set out in Annex IIb is used under the programme, the two preceding

The beneficiary Member States shall be responsible for the governance of the fund. The beneficiary Member States shall be assisted by an advisory board, which shall be composed of representatives from the beneficiary Member States, and the EIB. The advisory board shall be responsible to elaborate guidance in relation to objectives of an Union-level investment policy with regard to this fund, appropriate financing instruments and role of national financing institutions as well as investment selection criteria, taking into account criteria established in article 10c para.2, the technological neutrality of projects, specific needs of the beneficiary Member States as well as transparency and effectiveness of the selection process.

Separate guidance, covering at least selection criteria, role of national financial institutions and available financing instruments, shall be developed for small-scale investment projects.

The beneficiary Member States shall be responsible for the day-to-day management of the fund and, based on the guidance, develop country specific rules taking into account criteria established in article 10c para.2 including investment selection criteria, investment selection process and funds distribution. The rules shall be made public. The selection of the eligible projects will be made by the beneficiary Member States.

The advisory board shall strive to take decisions by consensus. If the advisory board is not able to decide by consensus within a deadline set by the chairman, the investment board shall take a decision by simple majority.

**sentences shall not apply.**

*Justification*

*The Modernisation Fund should be therefore principally governed by the beneficiary Member States with support of the advisory board. The role of the advisory board should be focused on the elaboration of guidance which would facilitate reaching the EU's objectives whilst taking into account technological neutrality of projects and specific needs of the beneficiary Member States, whilst ensuring transparency and effectiveness of the selection process*

*Text proposed by the Commission*

*Amendment proposal by EURELECTRIC*

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Amendment 17

Article 10d - paragraph 5

The beneficiary Member States shall report annually to the **management committee** on investments financed by the fund.

The beneficiary Member States shall report annually to the **advisory board** on investments financed by the fund.

*Justification*

*This amendment is a follow-up to EURELECTRIC Amendment 17.*

*Text proposed by the Commission*

*Amendment proposal by EURELECTRIC*

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Amendment 18

Article 10d - paragraph 6

Each year, the **management committee** shall report to the Commission on experience with the evaluation and selection of investments. The Commission shall review the basis on which projects are selected by 31 December 2024 and, where appropriate, make proposals to the **management committee**.

Each year, the **advisory board** shall report to the Commission on experience with the evaluation and selection of investments. The Commission shall review the basis on which projects are selected by 31 December 2024 and, where appropriate, make proposals to the **advisory board**.

*Justification*

*This amendment is a follow-up to EURELECTRIC Amendment 17.*

*Text proposed by the Commission*

*Amendment proposal by EURELECTRIC*

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Amendment 19

Article 10d - paragraph 7

**The Commission shall be empowered to adopt a delegated act in accordance with Article 23 to implement this Article.**

**Deleted**

*Justification*

*The article on the creation of the Modernisation Fund is an important provision of the Directive. The detailed rules regarding its management and implementation should not be adopted through a delegated act but should be elaborated in the text of the ETS Directive.*

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*Text proposed by the Commission*

*Amendment proposal by EURELECTRIC*

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Amendment 20

Article 11 - paragraph 1 - subparagraph 2

A list of installations covered by this Directive for the five years beginning on 1 January 2021 shall be submitted by 30 September **2018**, and lists for the subsequent five years shall be submitted every five years thereafter. Each list shall include information on production activity, transfers of heat and gases, electricity production and emissions at sub-installation level over the five calendar years preceding its submission. Free allocations shall only be given to installations where such information is provided.

A list of installations covered by this Directive for the five years beginning on 1 January 2021 shall be submitted by 30 September **2019**, and lists for the subsequent five years shall be submitted every five years thereafter. Each list shall include information on production activity, transfers of heat and gases, electricity production and emissions at installation level over the five calendar years preceding its submission. **In addition, information on sub-installation level should only be provided for cases, where such information is relevant for the determination of the quantity of**

**allowances to be allocated.**

Free allocations shall only be given to installations where such information is provided.

*Justification*

*In order to avoid unnecessary administrative burden in accordance with existing practice, this requirement should be based on the provision of information at an installation level. This applies especially to information on cross boundary transfers of heat and gases. Such information should only be required if it is relevant to the determination of the quantity of allowances to be allocated: A provision of information for sub-installations should only be required if that information is necessary for the determination of the free allocation on the basis of product or fuel benchmarks.*

*Text proposed by the Commission*

*Amendment proposal by EURELECTRIC*

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Amendment 21

Article 24

24 (1) From 2008, Member States may apply emission allowance trading in accordance with this Directive to activities and to greenhouse gases which are not listed in Annex I, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the Community scheme and the reliability of the planned monitoring and reporting system, provided that inclusion of such activities and greenhouse gases is approved by the Commission.

24 (1) From 2008, Member States may apply emission allowance trading in accordance with this Directive to activities and to greenhouse gases which are not listed in Annex I, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the Community scheme and the reliability of the planned monitoring and reporting system, provided that inclusion of such activities and greenhouse gases is approved by the Commission. **The European Commission shall produce guidelines for unilateral inclusion in line with the rules on state aid and in agreement with the competent Council bodies.**

*Justification*

*In order to minimise distortions of competition between activities inside and outside the emissions trading system in particular in areas with competition in usage (e.g. in the area of electro-mobility or in the heating market) as well as competition between member states (e.g. through differing*

*national measures), the European Commission should produce guidelines for unilateral inclusion in line with the rules on state aid and in agreement with the competent Council bodies.*

*In this context, in particular, the possible effects of the inclusion of a particular area on the internal market, possible distortions of competition, the environment integrity of the rule and the reliability of the provided monitoring and reporting processes as well as interactions at the level of interface with other climate protection instruments must be taken into account. The guidelines should also expressly enable pilot projects of member states to take place but also set out an ordered framework accordingly.*

*Text proposed by the Commission*

*Amendment proposal by EURELECTRIC*

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#### Amendment 22

##### Article 27

1. Following consultation with the operator, Member States may exclude from the Community scheme installations which have reported to the competent authority emissions of less than 25 000 tonnes of carbon dioxide equivalent **and, where they carry out combustion activities, have a rated thermal input below 35 MW**, excluding emissions from biomass, in each of the three years preceding the notification under point (a), and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

1. Following consultation with the operator, Member States may exclude from the Community scheme installations which have reported to the competent authority emissions of less than 25 000 tonnes of carbon dioxide equivalent [...], excluding emissions from biomass, in each of the three years preceding the notification under point (a), and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with the following conditions:

##### *Justification*

*The administrative burden and quantity thresholds should be improved in order to simplify the future applicability of opt-out provisions. The threshold for the opt-out provision of 35 MW for combustion installations should be deleted in order to improve the efficient application of the rule. For the identification of eligible small emitters the sole criterion should, in line with industry installations, be a permissible emissions level of 25,000 tonnes of CO<sub>2</sub> equivalent per year.*

## Amendment 23

## Article 28

1. *Within three months of the signature by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding 20 % compared to 1990 levels, as reflected in the 30 % reduction commitment as endorsed by the European Council of March 2007*, the Commission shall submit a report assessing, in particular, the following elements:

(a) the nature of the measures agreed upon in the framework of the international negotiations as well as *the commitments made by other developed countries to comparable emission reductions to those of the Community and the commitments made by economically more advanced developing countries* to contributing adequately according to their responsibilities and respective capabilities;

(b) the implications of the international agreement on climate change, and consequently, options required at Community level, *in order to move to the more ambitious 30 % reduction target in a balanced, transparent and equitable way, taking into account work under the Kyoto Protocol's first commitment period*;

(c) the Community manufacturing industries' competitiveness in the context of carbon leakage risks;

(d) the impact of the international agreement on climate change on other Community economic sectors;

(e) the impact on the Community agriculture sector, including carbon leakage risks;

(f) the appropriate modalities for including emissions and removals related to land use,

1. ~~*Within three months of the signature by the Community of an international agreement on climate change leading, by 2020, to mandatory reductions of greenhouse gas emissions exceeding 20 % compared to 1990 levels, as reflected in the 30 % reduction commitment as endorsed by the European Council of March 2007,*~~

*In compatibility with the regular reviews foreseen in the Paris Agreement, the EU will review its level of ambition in the context of global mitigation efforts following a global stocktake of nationally determined contributions.* The Commission shall submit a report assessing, in particular, the following elements:

(a) the nature of the measures agreed upon in the framework of the international negotiations as well as ~~*the commitments made by other developed countries to comparable emission reductions to those of the Community and the commitments made by economically more advanced developing countries*~~ *the efforts be undertaken by other major economies, including developing countries,* to contributing adequately according to their responsibilities and respective capabilities, *in the light of different national circumstances*;

(b) the implications of the international agreement on climate change, and consequently, options required at Community level; ~~*in order to move to the more ambitious 30 % reduction target in a balanced, transparent and equitable way, taking into account work under the Kyoto Protocol's first commitment period*~~;

(c) the Community manufacturing industries' competitiveness in the context of carbon

land use change and forestry in the Community;

(g) afforestation, reforestation, avoided deforestation and forest degradation in third countries in the event of the establishment of any internationally recognised system in this context;

(h) the need for additional Community policies and measures in view of the greenhouse gas reduction commitments of the Community' and of Member States.

2. On the basis of the report referred to in paragraph 1, the Commission shall, as appropriate, submit a legislative proposal to the European Parliament and to the Council amending this Directive pursuant to paragraph 1, ***with a view to the amending Directive entering into force upon the approval by the Community of the inter- national agreement on climate change and in view of the emission reduction commitment to be implemented under that agreement.***

The proposal shall be based upon the principles of transparency, economic efficiency and cost-effectiveness, as well as fairness and solidarity in the distribution of efforts between Member States.

leakage risks;

(d) the impact of the international agreement on climate change on other Community economic sectors;

(e) the impact on the Community agriculture sector, including carbon leakage risks;

(f) the appropriate modalities for including emissions and removals related to land use, land use change and forestry in the Community;

(g) afforestation, reforestation, avoided deforestation and forest degradation in third countries in the event of the establishment of any internationally recognised system in this context;

(h) the need for additional Community policies and measures in view of the greenhouse gas reduction commitments of the Community' and of Member States;

**(i) the possibility of using approved credits from third countries which have ratified the international agreement on climate change by the operators.**

2. On the basis of the report referred to in paragraph 1, the Commission shall, as appropriate, submit a legislative proposal to the European Parliament and to the Council amending this Directive pursuant to paragraph 1, **with a view to achieving the emission reduction commitment to be implemented under that agreement. with a view to the amending Directive entering into force upon the approval by the Community of the inter- national agreement on climate change and in view of the emission reduction commitment to be implemented under that agreement.**

The proposal shall be based upon the principles of transparency, economic efficiency and cost-effectiveness, as well as fairness and solidarity in the distribution of efforts between Member States.

### *Justification*

*If the EU is to increase its level of ambition, this should lead to an assesment of the current ETS Directive, including an assessment of international transfers of concrete mitigation efforts with a view of developing a wider application of carbon markets globally. However, this shall not be done at the expense of the ETS scheme stability (as already witnessed at the end of Phase 2).*

*Text proposed by the Commission*

*Amendment proposal by EURELECTRIC*

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### Amendment 24

#### Article 29

If, on the basis of the regular reports on the carbon market referred to in Article 10(5), the Commission has evidence that the carbon market is not functioning properly, it shall submit a report to the European Parliament and to the Council. The report may be accompanied, if appropriate, by proposals aiming at increasing transparency of the carbon market and addressing measures to improve its functioning.

If, on the basis of the regular reports on the carbon market referred to in Article 10(5), the Commission has evidence that the carbon market is not functioning properly, it shall submit a report to the European Parliament and to the Council. **The report shall include a description and quantified analysis of the interaction between EU ETS and other European policies and national measures in relation to the various European objectives in the field of climate and energy.** The report may be accompanied, by proposals aiming at increasing the transparency and stringency of the carbon market, and addressing measures to improve its functioning.

### *Justification*

*In order for the EU ETS to function well, negative overlap and interaction between different policy instruments should be avoided. National measures in the trading sector, on top of the EU ETS, make emissions decrease nationally, not on an EU level where emissions are only redistributed between countries and sectors. It is therefore necessary that the European Commission describes and analyses this in the yearly carbon market report.*



EURELECTRIC pursues in all its activities the application of the following sustainable development values:

Economic Development

▶ Growth, added-value, efficiency

Environmental Leadership

▶ Commitment, innovation, pro-activeness

Social Responsibility

▶ Transparency, ethics, accountability



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