



# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2008/0013(COD) Procedure completed
Greenhouse gas emission allowance trading scheme of the Community Amending Directive 2003/87/EC <a href="#">2001/0245(COD)</a>	
Subject 3.70.02 Atmospheric pollution, motor vehicle pollution 3.70.03 Climate policy, climate change, ozone layer 3.70.20 Sustainable development	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ENVI</b> Environment, Public Health and Food Safety		05/03/2008
		PPE-DE <a href="#">DOYLE Avril</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>INTA</b> International Trade		09/09/2008
		PPE-DE <a href="#">WORTMANN-KOOL Corien</a>	
	<b>ECON</b> Economic and Monetary Affairs		11/03/2008
		PSE <a href="#">FERREIRA Elisa</a>	
	<b>ITRE</b> Industry, Research and Energy (Associated committee)		18/03/2008
		ALDE <a href="#">EK Lena</a>	
	<b>REGI</b> Regional Development		
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2936</a>	06/04/2009
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2913</a>	08/12/2008
	<a href="#">Environment</a>	<a href="#">2912</a>	04/12/2008
	<a href="#">Environment</a>	<a href="#">2898</a>	20/10/2008
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2895</a>	09/10/2008
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2875</a>	06/06/2008
	<a href="#">Environment</a>	<a href="#">2784</a>	05/06/2008
	<a href="#">Environment</a>	<a href="#">2856</a>	03/03/2008
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2854</a>	28/02/2008
European Commission	Commission DG	Commissioner	
	<a href="#">Environment</a>	DIMAS Stavros	

Key events			
23/01/2008	Legislative proposal published	<a href="#">COM(2008)0016</a>	Summary
19/02/2008	Committee referral announced in Parliament, 1st reading		
28/02/2008	Debate in Council	<a href="#">2854</a>	Summary
03/03/2008	Debate in Council	<a href="#">2856</a>	Summary
10/04/2008	Referral to associated committees announced in Parliament		
05/06/2008	Debate in Council	<a href="#">2784</a>	Summary
06/06/2008	Debate in Council	<a href="#">2875</a>	Summary
07/10/2008	Vote in committee, 1st reading		Summary
09/10/2008	Debate in Council	<a href="#">2895</a>	
15/10/2008	Committee report tabled for plenary, 1st reading	<a href="#">A6-0406/2008</a>	
20/10/2008	Debate in Council	<a href="#">2898</a>	Summary
04/12/2008	Debate in Council	<a href="#">2912</a>	
08/12/2008	Debate in Council	<a href="#">2913</a>	
16/12/2008	Debate in Parliament		
17/12/2008	Results of vote in Parliament		
17/12/2008	Decision by Parliament, 1st reading	<a href="#">T6-0610/2008</a>	Summary
06/04/2009	Act adopted by Council after Parliament's 1st reading		
22/04/2009	End of procedure in Parliament		
23/04/2009	Final act signed		
05/06/2009	Final act published in Official Journal		

Technical information	
Procedure reference	2008/0013(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2003/87/EC <a href="#">2001/0245(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 175-p1
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/6/58775

Documentation gateway					
Legislative proposal		<a href="#">COM(2008)0016</a>	23/01/2008	EC	Summary

Document attached to the procedure		<a href="#">COM(2008)0030</a>	23/01/2008	EC	Summary
Document attached to the procedure		<a href="#">SEC(2008)0052</a>	23/01/2008	EC	
Document attached to the procedure		<a href="#">SEC(2008)0053</a>	23/01/2008	EC	
Document attached to the procedure		<a href="#">SEC(2008)0085</a>	23/01/2008	EC	
Committee draft report		<a href="#">PE407.778</a>	11/06/2008	EP	
Amendments tabled in committee		<a href="#">PE409.565</a>	08/07/2008	EP	
Amendments tabled in committee		<a href="#">PE409.584</a>	08/07/2008	EP	
Economic and Social Committee: opinion, report		<a href="#">CES1201/2008</a>	09/07/2008	ESC	
Amendments tabled in committee		<a href="#">PE409.585</a>	10/07/2008	EP	
Amendments tabled in committee		<a href="#">PE409.650</a>	14/07/2008	EP	
Amendments tabled in committee		<a href="#">PE409.642</a>	15/07/2008	EP	
Amendments tabled in committee		<a href="#">PE409.657</a>	15/07/2008	EP	
Amendments tabled in committee		<a href="#">PE409.659</a>	15/07/2008	EP	
Amendments tabled in committee		<a href="#">PE409.679</a>	17/07/2008	EP	
Amendments tabled in committee		<a href="#">PE409.693</a>	18/07/2008	EP	
Amendments tabled in committee		<a href="#">PE409.701</a>	18/07/2008	EP	
Committee opinion	<b>REGI</b>	<a href="#">PE406.005</a>	22/07/2008	EP	
Committee opinion	<b>ECON</b>	<a href="#">PE406.161</a>	11/09/2008	EP	
Committee opinion	<b>ITRE</b>	<a href="#">PE404.749</a>	15/09/2008	EP	
Committee opinion	<b>INTA</b>	<a href="#">PE405.911</a>	16/09/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0406/2008</a>	15/10/2008	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0610/2008</a>	17/12/2008	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2009)402</a>	29/01/2009	EC	
Draft final act		<a href="#">03737/2008/LEX</a>	23/04/2009	CSL	

#### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

#### Final act

<a href="#">Directive 2009/29</a> <a href="#">OJ L 140 05.06.2009, p. 0063</a> Summary
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PURPOSE: to improve and extend the greenhouse gas emission allowance trading system of the Community (EU ETS).

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: on 10 January 2007, the Commission adopted an integrated package of measures in the area of energy and climate change, inviting the Council and the European Parliament to approve:

- an EU commitment to reduce greenhouse gas emissions by at least 20% by 2020 compared to 1990 levels, as well as the aim for a 30% reduction by 2020, subject to the conclusion of an international agreement on climate change;
- a binding target for the EU of a 20% share of renewable energy sources in energy consumption by 2020, and a 10% target for biofuels.

This strategy was approved by the European Parliament and EU leaders during the March 2007 European Council. The European Council invited the Commission to present concrete proposals, particularly on the provisions for sharing the effort between Member States to achieve this objective.

The series of measures here presented is the response to this invitation. It includes a proposed set of key interdependent measures to be taken, as outlined below:

- a proposal for a directive amending Directive 2003/87/EC, to improve and extend the European Union Greenhouse Gas Emission Trading Scheme (the subject of this document);
- a proposal for a decision on the effort to be made by Member States to reduce their greenhouse gas emissions, in order to respect the Community's commitments to reduce these emissions by 2020 (see [COD/2008/0014](#));
- a proposal for a directive aiming to promote renewable energy (see [COD/2008/0016](#)).

Included among the proposals that make up this set of measures are: a proposal for a regulatory framework on carbon capture and storage (see [COD/2008/0015](#)); a communication on the demonstration of carbon capture and storage; and a new Community framework on State aid in the area of the environment.

CONTENT: On 1 January 2005, the European Emission Trading System (EU ETS) started operation. It represents the spearhead and one of the most important instruments of EU climate policy due to its ability to achieve absolute emission reductions in an economically efficient manner.

The EU ETS developed into the world's largest single carbon market accounting for 67% in terms of volume and 81% in terms of value of the global carbon market and also worked as the driver of the global credit market and in that triggered investments in emission reduction projects today indirectly linking 147 countries to the EU ETS through JI/CDM projects. However, a review of the EU ETS showed that it is necessary to reinforce and update the system so that it can respond to the new targets assigned to it.

The proposed amendments to the EU ETS Directive are guided by three overall objectives to be achieved:

1. Fully exploiting the potential of the EU ETS to contribute to the EU's overall greenhouse gas reduction commitments in an economically efficient manner;
2. Refining and improving the EU ETS in the light of experience gathered;
3. Contributing to transforming Europe into a low greenhouse-gas-emitting economy and creating the right incentives for forward looking low carbon investment decisions by reinforcing a clear, undistorted and long-term carbon price signal.

The scope of the EU ETS: under the proposal, the scope of the EU ETS would be extended and would cover greenhouse gases other than CO<sub>2</sub>, as well as all large, polluting industrial installations. According to the Commission, the emissions trading system should only be extended to emissions which are capable of being monitored, reported and verified with the same level of accuracy as applies under the monitoring, reporting and verification requirements currently applicable under the Directive.

To ease the administrative burden, industrial installations which emit less than 10 000 tonnes of CO<sub>2</sub> will not be included in the system, subject to equivalent measures being implemented to ensure an adequate contribution by these installations to reduction efforts.

Furthermore, installations which undertake the capture, transport and geological storage of greenhouse gases should be covered by the system. Note that the current proposal does not include emissions due to shipping and road transport.

Monitoring, Reporting and Verification: the proposal contains measures aiming to improve monitoring and reporting rules, to harmonise rules for verification and accreditation and to update compliance provisions, in order to ensure that the penalties for non-compliance remain sufficiently high to ensure that the market functions properly. It also aims to increase confidence in and credibility of the EU ETS with a simple and robust registry system. With this in mind, EU ETS allowances issued from 1 January 2013 onwards should be held in the Community registry.

Further Harmonisation and Increased Predictability: the current system based on national cap-setting does not provide sufficient guarantees that the emission reduction objectives endorsed by the European Council will be achieved. It is therefore proposed to establish an EU-wide cap in the Directive. It also provides a long-term perspective and increased predictability, which is required for long-term investments in efficient abatement. This can be best achieved by an 8-year trading period until 2020 and a linear reduction of the cap that continues the reduction path beyond 2020, thereby giving a clear message to investors. The linear reduction which is consistent with this principle amounts to 1.74% per year, arriving at a reduction of 21% below reported 2005 emissions.

The Commission considers that auctioning should be the basic principle for allocation. In the power sector responsible for a large proportion of emissions full auctioning of quotas should be the rule from the launch of the new system in 2013. The majority of other industrial sectors, as well as aviation, will gradually be included in the auctioning system, which will be achieved by 2020.

Member States will be responsible for the auctions and the revenue will be transferred to their respective Treasuries. These auctions will, however, be public: all European operators will have the right to buy quotas in any Member State. Auctions will generate significant revenue for the Member States and will contribute to the process of adjustment to a carbon-free economy by supporting research and development and innovation in fields such as renewable energy and carbon capture and storage, by supporting developing countries and by helping those with lesser means to invest in more efficient energy measures. Member States should commit to dedicating at least 20% of their revenue from auctions.

Finally, the proposal contains measures aiming to establish links with emission trading systems in third countries, and on appropriate means to involve developing countries and countries in economic transition.

## Greenhouse gas emission allowance trading scheme of the Community

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Following the Commission's presentation of the climate-energy package, the Council held a public policy debate, focusing on the [proposal for a directive](#) on the promotion of the use of energy from renewable sources.

In view of the nature of the climate-energy package, two horizontal questions focused on the ambition of the package as a whole and on sustainability criteria, and two questions were addressed to energy ministers focusing on renewable energy sources and on the trade in guarantees of origin.

The presidency summarised the debate along the following lines:

- Delegations welcome the climate-energy package in general as well as the proposal on the promotion of the use of energy from renewable sources. Early adoption of the instrument has been urged by several delegations;
- The national targets are considered to be very ambitious - some even think they are too ambitious - and, in order to achieve them, there is inter alia a need for (i) much flexibility on how to achieve them; (ii) increasing public support for renewable energies and; (iii) certainty with respect to the support schemes, including the guidelines on state aid for environmental protection. In this context, it is crucial to have some assurance that, after 2014, the successor to these guidelines will be equally supportive.
- The importance of the indicative trajectories for reaching the targets has been confirmed, but here also, flexibility seems to be necessary;
- Solidarity has been highlighted as another essential aspect;
- Balance is needed between competitiveness, security of supply and sustainability;
- The importance of trade in guarantees of origin has been underlined as a flexible instrument which should enable and not hinder Member States to reach their targets, as well as the continuation of current national support schemes for renewables;
- The contribution of energy efficiency is considered as essential to achieve the objectives;
- With respect to biofuels, there is broad support for ambitious sustainability criteria. However, these criteria should not diminish the competitiveness of European industry nor should they lead to trade barriers since import of and trade in biofuels will be necessary to achieve the target in this field. Moreover, the cost-effectiveness of the sustainability scheme will have to be ensured;
- Several delegations have indicated that sustainability criteria should apply to all forms of biomass. In this context, consistency between the renewables directive and the fuel quality directive is essential;

Lastly, the need for cost efficiency has been underlined as an essential element.

## Greenhouse gas emission allowance trading scheme of the Community

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The Council held a policy debate on key aspects of the climate action and energy legislative package with a view to the adoption of political guidelines to be given by the European Council on 13 and 14 March 2008. The European Council conclusions will provide guidance for further examination of the package.

Other questions related specifically to the EU emissions trading system (ETS), the non-ETS sectors and to the proposed framework for geological storage of carbon dioxide. At the end of the meeting, the presidency summarised the outcome of the debate as follows:

- the presentation of the climate action and renewable energy package by the Commission is a welcome response to the objectives and targets endorsed by the EU heads of state and government last year;
- Ministers welcome the direction of the proposed new design features of the EU ETS, such as the increased harmonisation of allocation, including the use of auctioning, as a way of enhancing the cost-effectiveness of the required emission reductions. In this respect, the need to anticipate greater flexibility for the realisation of different objectives was identified;
- carbon leakage remains a key concern that should be addressed appropriately;
- it will be important to clarify the methodology used to determine the reduction of emissions and the objectives in terms of renewable energies;
- work on the ETS review by the EU, the sharing of the non-ETS effort, the framework for storage of carbon dioxide and renewable energy sources must progress at the same rate;
- there is a need to make headway on the technical issues as quickly as possible in order to reach a final agreement with the European Parliament in early 2009 at the latest.

Ministers held an exchange of views on the international aspects of the package with Mr Yvo de Boer, Executive Secretary of the UN Climate Convention. The package contains the following proposals:

- a [Directive](#) amending Directive 2003/87/EC in order to improve and extend the EU greenhouse gas emission allowance trading system;
- a [Decision](#) on the effort of EU Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020;
- a [Directive](#) on the promotion of the use of renewable energy sources;
- a [Directive](#) on the geological storage of carbon dioxide.

The legislative package, to be examined under the Parliament-Council codecision procedure, was presented by the Commission with a view to implementing the objectives, targets and commitments undertaken by EU heads of state and government in March 2007:

- a 20% reduction of greenhouse gas emissions by 2020 compared to 1990;
- a 30% reduction in greenhouse gas emissions by 2020 compared to 1990 as its contribution to a global and comprehensive post-2012 agreement;
- saving 20% of the EU's energy consumption compared to projections for 2020;

- a 20% share of renewable energies in overall EU energy consumption by 2020;
- a 10% minimum target for the share of biofuels in overall EU transport petrol and diesel consumption by 2020;
- to develop and define the necessary technical, economic and regulatory framework to bring environmentally safe carbon dioxide capture and sequestration to deployment with new fossil-fuel power plants.

## Greenhouse gas emission allowance trading scheme of the Community

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The Council held a public debate on key aspects of the climate change and renewable energy legislative package. Ministers confirmed the need to achieve ambitious objectives in the fight against climate change whilst preserving European potential for economic growth.

EU member states and the Commission stressed the importance of reaching a timely agreement with a view to facilitating a broader convergence on a global scale, in the run-up to the international meeting to take place in Copenhagen in December 2009.

The discussions concentrated on key aspects of the package, namely:

On the EU emission trading system (ETS) review:

- the allocation method; redistribution and use of auctioning proceeds and rules for auctioning,
- risks of "carbon leakage": relocation of energy-intensive industries outside the EU,
- EU-wide cap: replacement of the current system of national allocation plans by the setting of an EU-wide cap,
- reference year or period to be used for verified emissions data,
- new entrants reserve: quantity of allowances set aside for new entrants,
- small installations: size of installation to be potentially excluded from the scope of the ETS.

On effort-sharing (amongst member states in sectors not covered by the ETS):

- scope: sectors not to be covered by the EU ETS,
- reference year or period for calculating the reduction targets per country,
- intermediate targets: effectiveness of using indicative or compulsory intermediate targets;
- on cross-cutting issues between EU ETS review and effort-sharing,
- trigger 20-30%: adjustment clause enabling the EU to move from the independent 20% commitment to a more ambitious target to which a future international agreement will commit the EU,
- degree of flexibility for member states to meet their commitments in a cost-efficient way.

On carbon capture and storage (CCS):

- storage permits,
- composition of CO<sub>2</sub> stream,
- transfer of responsibility after closure of a storage site,
- modalities of the financial security provision to be made by applicants for storage permits,
- conditions of access to transport networks,
- capture readiness.

On sustainability criteria for biofuels:

- minimum greenhouse gas emission saving requirement,
- environmental and social criteria,
- methodology for calculating the greenhouse gas emission saving.

## Greenhouse gas emission allowance trading scheme of the Community

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The Council took note of a progress report on climate change-energy legislative package prepared by the Presidency and held a public policy debate on the main outstanding issues identified in it.

The climate change-energy package complements existing measures aiming at reaching the overall objective - endorsed by the European Council in March 2007 - of a 20% reduction in greenhouse gases by 2020 and of achieving a 20% share of renewable energies in overall EU energy consumption by 2020, including a 10% target for renewable transport fuels. The progress report was presented to both Council formations Energy and Environment as it deals with the package as a whole.

The Energy ministers' debate focused on a proposal for a directive on the promotion of the use of energy from renewable sources, with the aim of providing input for further work of the Council and its preparatory bodies under the incoming French Presidency.

The Presidency progress report points out the main outstanding issues identified in all four legislative proposals in the package.

As far as the Renewables Directive is concerned, these are the following: targets (level of the national renewable energy targets, conditionality of the renewable transport fuel target and the indicative trajectory and its consequences), long lead-time projects, the systems of trading in guarantees of origin and reinforcing measures.

One part of the report is devoted to the progress made on the sustainability criteria for biofuels, which are considered necessary to ensure that the production of biofuels does not have negative consequences that outweigh the benefits arising from their use. In February 2008, Coreper established an ad hoc working party with the task of drawing up a common sustainability scheme for biofuels for the purposes of the renewables and fuel quality directives. The working party met on several occasions and made progress on numerous issues. However, some issues need to be addressed further: the level and date of application of the second stage for the minimum greenhouse gas emissions saving requirement, the environmental and social sustainability of biofuel production which would apply also in third countries and the methodology for calculating greenhouse gas emissions saving.

# Greenhouse gas emission allowance trading scheme of the Community

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The Committee on the Environment, Public Health and Food Safety adopted the report drafted by Avril DOYLE (EPP-ED, IE) and made amendments to the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community.

The main amendments ? made in 1<sup>st</sup> reading of the codecision procedure ? are as follows:

Free allowances to the installations: according to MEPs, the amount of allowances allocated free of charge in 2013 shall be 85% (and not 80% as proposed by the Commission). Thereafter the free allocation shall decrease each year by equal amounts resulting in no free allocation in 2020. From 2014, free allocation to aviation operators shall decrease by equal amounts resulting in no free allocation in 2020.

Sectoral benchmarking: free allocations to installations shall be made at a level no higher than is indicated by the appropriate sectoral benchmark, so as to reward the most efficient operators. These sectoral benchmarks shall be based on the best greenhouse gas and energy efficient techniques, including the technical potential to reduce emissions, and technologies available on the market, including substitutes, generally applicable alternative production processes, use of biomass, cogeneration and greenhouse gas capture and storage.

Integration of maritime transport in the EU Emission Trading Scheme (EU ETS): Members consider that all sectors of the economy should contribute to achieving these emission reductions, including international aviation and maritime transport). International maritime transport emissions should be incorporated into the EU Emissions Trading System (EU ETS) by 2015 or should otherwise be included in any decision on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020.

Quantity of emission allowances issued to the Community: according to the MEPs, the amount of allowances to be issued by Member States under their national allocation plan for 2008-2012 should be finalised before 2010, so this date can be brought forward.

The Commission shall review the linear factor no later than 2020 (as opposed to 2015). As regards installations which are only included in the Community scheme from 2013 onwards, Member States shall ensure that the operators of such installations submit to the relevant competent authority duly substantiated and independently verified emissions data in order for them to be taken into account for the quantity of allowances to be issued. The Commission must publish the data submitted by Member States relating to installations which have been opted in during Phase II, or included from 2013. In respect of installations which are excluded from the Community scheme or due to closure, the total quantity of allowances to be issued from 1 January 2013 shall be adjusted downwards by the total average verified emissions of those installations in 2005 to 2007 minus 21% of those emissions.

Capture and geological storage of carbon dioxide: MEPs consider that up to a maximum of 500 million allowances in the new entrants reserve shall be awarded to large-scale commercial demonstration projects that are undertaking the capture and geological storage of carbon dioxide in the territory of the EU or in developing countries and countries with economies in transition outside the EU that ratify the future international agreement.

The allowances shall be awarded to projects that provide for the development, at best value costs and in geographically balanced locations across the EU, of a wide range of carbon capture and storage technologies making use of various geological storage sites.

Auction of allowances: in order to ensure an orderly functioning of the carbon and electricity markets, the auctioning of allowances for the period from 2013 onwards should start by 2011 at the latest and be based on clear and objective principles defined well in advance. By 31 December 2010 the Commission shall determine and publish the anticipated Community-wide amount of allowances to be auctioned for the period 2013 to 2020.

Minimum percentage of 50% of revenue: at least 50% of the revenues generated from the auctioning of allowances shall be used in a dedicated international fund as follows:

- a) one quarter for measures to contribute to funds to avoid deforestation and increase afforestation and reforestation in developing countries that have ratified the future international agreement, taking into account: the rights and needs of indigenous peoples; the preservation of biodiversity; and the sustainable use of forest resources;
- b) one quarter to reduce emissions in developing countries that have ratified the future international agreement, and to transfer technology to those countries, e.g. through the Global Energy Efficiency and Renewable Energy Fund;
- c) one half to facilitate adaptation to the adverse effects of climate change in developing countries that have ratified the future international agreement on climate change.

Revenues not used, including all revenues from the auctioning, shall be used to address climate change issues, inter alia:

- to reduce greenhouse gas emissions, to adapt to the impacts of climate change and to fund research and development for reducing emissions and adaptation, including participation in initiatives within the framework of the European Strategic Energy Technology Plan and the European Technology Platforms;
- to develop renewable energies to meet the commitment of the Community to using 20% renewable energies by 2020;
- to meet the commitment of the Community to increase energy efficiency by 20% by 2020;
- for the environmentally safe capture and geological storage of greenhouse gases, from coal power stations and a range of industrial sectors and subsectors;
- to finance research and development in energy efficiency and clean technologies;
- for additional measures to avoid deforestation, to promote sustainable afforestation and forest management in Europe and produce and mobilise sustainable biomass in the Community;
- to address energy poverty, for example through financial measures to promote increased energy efficiency and insulation;
- to encourage a shift to low emission forms of transport, including modal shift, and to offset the increased cost of power for



electric traction in the rail sector;

- to cover administrative expenses of the management of the Community scheme; and
- for installations for research, innovation and investments in low-carbon technologies, including, inter alia, renewable energy, the capture and geological storage of greenhouse gases and more energy efficient production processes.

MEPs consider that free allocation shall be given to electricity generators in respect of the production of heat that is for sale to third parties, including district heating networks, through high efficiency cogeneration in respect of the production of heating or cooling.

Exclusion of small installations: the committee proposes that Member States may, at the request of the operator, exclude from the Community scheme installations which have a rated thermal input below 35MW (against 25MW), reported emissions to the competent authority of less than 25 000 tonnes of carbon dioxide (as opposed to 10 000 tonnes) equivalent, excluding emissions from biomass, in each of the preceding 3 years. Hospitals may also be excluded if they undertake equivalent measures.

Disclosure of information and professional secrecy: Member States and the Commission shall ensure that all decisions and reports relating to the quantity and allocation of allowances and to the monitoring, reporting and verification of emissions shall immediately be disclosed in a manner ensuring fast access to such information on a non-discriminatory basis.

Bordering countries: the Commission shall, in the framework of the European Neighbourhood Policy and the enlargement process, aim to conclude agreements with the countries concerned to include them in the Community scheme or to provide for the mutual recognition of allowances.

## Greenhouse gas emission allowance trading scheme of the Community

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The Council held an in-depth discussion of the three draft legislative measures within their competence, i.e. [the review of the EU greenhouse gas emission allowance trading system](#) (EU ETS); [effort sharing outside the EU ETS](#) and the [Directive on the capture and storage of carbon](#).

The discussion brought out the clear will to succeed in arriving at an agreement with the European Parliament by the end of 2008 so that a first-reading could be reached before the end of the current legislature.

The Council intends to step up its discussions in close collaboration with the Commission so that the EU may continue to have a leading role in combating climatic change at international level. With this in mind, the Presidency instructed the Permanent Representatives Committee to prepare the negotiations on the package with the European Parliament without delay, in order to come to an agreement at first reading.

Discussions related principally to the following:

- measures applicable to the energy sector within the EU ETS: discussions showed that an auctioning rate of 100 % in the energy sector was accepted by most delegations. However some specific situations might justify derogations of limited duration and extent, in particular because of insufficient integration of the energy sector at European level;
- pre-allocation of the income from auctions: the discussion showed that although some Member States thought that the use of the income from auctions was a matter for national competence, voluntary commitments could be given consideration;
- financing capture and storage of CO<sub>2</sub>: the Council was prepared to examine the possibilities of combining several options, including national and Community financing, to supplement the contribution of the private sector;
- the risk of "carbon leakage" (i.e. relocation of energy-intensive undertakings outside the EU), and the measures to be taken to protect both the environment and the competitiveness of industry in Europe: the Council showed its determination to provide clear answers to the problems which might arise from "carbon leakage". In this connection, it examined the need to lay down quantitative and qualitative criteria within appropriate periods of time, and arrangements for the sectors which were the most exposed to world competition.

## Greenhouse gas emission allowance trading scheme of the Community

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The European Parliament adopted by 610 votes to 60, with 29 abstentions, a legislative resolution on the proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community.

The report had been tabled for consideration in plenary by Avril DOYLE (EPP-ED, IE), on behalf of the Committee on Environment, Public Health and Food Safety.

The amendments ? adopted in 1st reading of the codecision procedure ? are the result of a compromise between Parliament and Council. The proposal to send the report back to the committee was rejected by 514 votes to 118, with 24 abstentions.

The main elements of the compromise are as follows:

Purpose: under the compromise, the Directive provides for the reductions of greenhouse gas emissions to be increased so as to contribute to the levels of reductions that are considered scientifically necessary to avoid dangerous climate change. It also lays down provisions for assessing and implementing a stricter EU reduction commitment exceeding 20%, to be applied upon the approval by the Community of an international agreement leading to emissions reductions exceeding those required by the Directive (as reflected in the 30% commitment as endorsed by the Spring 2007 European Council).

Integration of maritime shipping and aviation into the EU ETS: all sectors of the economy should contribute to achieving these emission reductions, including international maritime shipping and aviation. In the event that no international agreement including international maritime emissions in its reduction targets has been approved by the Member States, the Commission should make a proposal to include international maritime emissions, according to harmonised modalities, in the Community reduction commitment with the aim of its entry into force by 2013.

Greenhouse gas emissions permits: Member States shall ensure that, from 1 January 2005, no installation undertakes any activity listed in Annex I resulting in emissions specified in relation to that activity unless its operator holds a permit issued by a competent authority, or the



installation is excluded from the Community scheme. The operator shall inform the competent authority of any changes planned in the nature or functioning, or an extension or a significant reduction of capacity, of the installation which may require updating of the greenhouse gas emissions permit.

Community-wide quantity of allowances: the Community-wide quantity of allowances issued each year starting in 2013 shall decrease in a linear manner beginning from the mid-point of the period 2008 to 2012. The Commission shall, by 30 June 2010, publish the absolute Community-wide quantity of allowances for 2013. It shall review the linear factor and submit a proposal, where appropriate, to the Council and the European Parliament as from 2020, with a view to having a decision by 2025.

Auctioning of allowances: from 2013 onwards, Member States shall auction all allowances which are not allocated free of charge in accordance with the Directive. By 31 December 2010, the Commission shall determine and publish an estimated amount of allowances to be auctioned. The total quantity of allowances to be auctioned by each Member State shall be composed as follows:

- 88% of the total quantity of allowances to be auctioned being distributed amongst Member States in shares that are identical to the share of verified emissions under the Community scheme for 2005 or the average of the period 2005-2007, whichever one is the highest, of the Member State concerned;
- 10% of the total quantity of allowances to be auctioned being distributed amongst certain Member States for the purpose of solidarity and growth within the Community;
- 2% of the total quantity of allowances to be auctioned being distributed amongst Member States whose greenhouse gas emissions in 2005 were at least 20% below their emissions in their levels in the base year applicable to them under the Kyoto Protocol.

At least 50% of the revenues generated from the auctioning of allowances should be used for one or more of the following:

- to reduce greenhouse gas emissions, including by contributing to the Global Energy Efficiency and Renewable Energy Fund and to the Adaptation Fund as operationalised by UNFCCC COP 14 in Poznan, to adapt to the impacts of climate change and to fund research and development as well as demonstration projects for reducing emissions and adaptation, including participation in initiatives within the framework of the European Strategic Energy Technology Plan and the European Technology Platforms;
- to develop renewable energies to meet the commitment of the Community to using 20% renewable energies by 2020, as well as to develop other technologies contributing to the transition to a safe and sustainable low-carbon economy and to help meet the commitment of the Community to increase energy efficiency by 20% by 2020;
- for measures to avoid deforestation and increase afforestation and reforestation in developing countries that have ratified the future international agreement; to transfer technologies and to facilitate adaptation to the adverse effects of climate change in these countries;
- for forestry sequestration in the EU;
- for the environmentally safe capture and geological storage of carbon dioxide, in particular from solid fossil fuel power stations and a range of industrial sectors and sub-sectors, including in third countries;
- to encourage a shift to low emission and public forms of transport;
- to finance research and development in energy efficiency and clean technologies in the sectors covered by the scope of the directive;
- for measures such as those intended to increase energy efficiency and insulation or to provide financial support in order to address social aspects in lower and middle income households.

By 30 June 2010, the Commission shall adopt a Regulation on timing, administration and other aspects of auctioning to ensure that it is conducted in an open, transparent, harmonised and non-discriminatory manner. To this end, the process should be predictable, in particular as regards to the timing and sequencing of auctions and the estimated volumes of allowances to be made available.

Auctions shall be designed to ensure that:

- operators, and in particular any small and medium size enterprises covered by the Community scheme, have full, fair and equitable access;
- all participants have access to the same information at the same time and that participants do not undermine the operation of the auction;
- the organisation and participation in auctions is cost-efficient and undue administrative costs are avoided;
- access to allowances is granted for small emitters.

Each year, the Commission shall submit a report to the Council and the European Parliament on the functioning of the carbon market, including the implementation of the auctions, liquidity and the volumes traded.

Moreover, the Commission shall, by 31 December 2010, examine whether the market for emissions allowances is sufficiently protected from insider dealing and market manipulation and if appropriate bring forward proposals to ensure it.

Free allowances in the manufacturing sector: full auctioning should be gradually introduced in the manufacturing sector, which will be granted 80% of its emission allowances for free in 2013, which will be reduced to 30% by 2020 in order to reach full auctioning in 2027 (and not 2020 as proposed by the Commission and MEPs). A large derogation has been introduced for sectors at significant risk of 'carbon leakage', in other words the relocation of production to third countries with a less strict climate policy, leading to increased CO<sub>2</sub> emissions by these countries. Until an international agreement is concluded, these sectors may receive up to 100% of free allowances until 2020, under certain conditions.

Free allocation for modernisation of electricity generation: Member States may give a transitional free allocation to installations operating by 31 December 2008 or to installations for which the investment process was physically initiated by the same date for electricity production if they meet certain conditions listed in the Directive. In 2013, the total transitional free allocation shall not exceed 70% of the annual average verified emissions in 2005-2007 from such generators for the amount corresponding to the gross final national consumption of the Member State concerned and shall gradually decrease resulting in no free allocation in 2020.

Transitional Community-wide rules for harmonised free allocation: the Commission shall, by 31 December 2010, adopt Community wide and fully-harmonised implementing measures for allocating the allowances. These measures shall, to the extent feasible, determine Community-wide ex ante benchmarks so as to ensure that allocation takes place in a manner that gives incentives for reductions in greenhouse gas emissions and energy efficient techniques, by taking account of the most efficient techniques, substitutes, alternative production processes, high efficiency cogeneration, efficient energy recovery of waste gases, use of biomass and capture and storage of carbon dioxide, where such facilities are available, and shall not give incentives to increase emissions.

Electricity generators may receive free allowances for district heating and cooling and for heat and cooling produced through high efficiency cogeneration as defined by Directive 2004/8/EC in the event that such heat produced by installations in other sectors were to be given free allocations, in order to avoid distortions of competition.

Member States may also adopt financial measures in favour of sectors or sub-sectors determined to be exposed to a significant risk of carbon leakage due to costs relating to greenhouse gas emissions passed on in electricity prices, in order to compensate for those costs and where this is in accordance with state aid rules applicable and to be adopted in this area.

Projects for the environmentally-safe capture and storage of carbon dioxide: up to 300 million allowances in the new entrants reserve shall be available until 31 December 2015 to help stimulate the construction and operation of up to 12 commercial demonstration projects that are aiming at the environmentally safe capture and geological storage of carbon dioxide as well as the demonstration projects of innovative renewable energy technologies, in the territory of the EU.

Procedures for unilateral inclusion of additional activities and gases: 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, provided that inclusion of such activities and greenhouse gases is approved by the Commission, taking into account all relevant criteria, in particular effects on the internal market, potential distortions of competition, the environmental integrity of the scheme and reliability of the planned monitoring and reporting system.

Exclusion of small installations: Member States may exclude, from the Community scheme, installations which have reported emissions to the competent authority 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 previous 3 years, and which are subject to measures that will achieve an equivalent contribution to emission reductions, if the Member State concerned complies with certain conditions.

Adjustments applicable upon the approval of a future international agreement on climate change: at the latest 3 months after 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, the Commission shall submit a report assessing, in particular, the following elements:

- 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 the EU's and the commitments made by economically more advanced developing countries to contributing adequately according to their responsibilities and respective capabilities;
- options required at the EU 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 first commitment period;
- the EU manufacturing industries competitiveness in the context of carbon leakage risks;
- the impact of the international agreement on other EU economic sectors;
- the impact on the EU agriculture sector, including carbon leakage risks;
- appropriate modalities for including emissions and removals related to land use, land use change and forestry in the Community;
- afforestation, reforestation, avoided deforestation and forest degradation in third countries in the event of the establishment of any internationally recognised system in this context;
- additional community policies and measures in view of the Community's and the Member States' greenhouse gas reduction commitments.

On the basis of this report, the Commission shall, as appropriate, submit a legislative proposal to the European Parliament and to the Council amending the present directive pursuant to paragraph 1, with a view to its entry into force upon the approval by the Community of the international agreement and in view of the emissions reduction commitment to be implemented under that agreement.

## Greenhouse gas emission allowance trading scheme of the Community

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**PURPOSE:** to improve and extend the greenhouse gas emission allowance trading system of the Community (EU ETS).

**LEGISLATIVE ACT:** Directive 2009/29/EC of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community.

**CONTENT:** following a first reading agreement with the European Parliament, the Council adopted a revised Emissions Trading System (ETS) for greenhouse gases in order to achieve greater emissions reductions in energy-intensive sectors. The main points are as follows:

**Definition of greenhouse gas:** the definition of greenhouse gases is aligned with the definition contained in the UNFCCC, and greater clarity is given on the setting and updating of global warming potentials for individual greenhouse gases.

**Allowances:** the Community-wide quantity of allowances will decrease in a linear manner calculated from the mid-point of the period from 2008 to 2012, ensuring that the emissions trading system delivers gradual and predictable reductions of emissions over time. The annual decrease of allowances will be equal to 1.74 % of the allowances issued by Member States pursuant to Commission Decisions on Member States' national allocation plans for the period from 2008 to 2012, so that the Community scheme contributes cost-effectively to achieving the commitment of the Community to an overall reduction in emissions of at least 20 % by 2020.

**Auctioning:** from 2013 onwards heavy industry will contribute significantly to the EU's overall target of cutting greenhouse gas (GHG) emissions by 20 % compared to 1990 levels by 2020. To stimulate the adoption of clean technologies, the new ETS provides that GHG emissions permits will no longer be given to industry for free, but be auctioned by Member States from 2013 onwards. ETS sectors must start by purchasing 20 % of their emissions permits at auctions in 2013. That rate will rise gradually to 70 % in 2020, with a view to reaching 100 % in 2027.

**Power producers,** on the other hand, are obliged to acquire all of their emissions allowances at auctions so as to prevent windfall profits. To facilitate the energy transition for countries with high dependence on fossil fuel or insufficient connection to the European electricity network, a derogation is available. 10 Member States may apply for reduced auctioning rates in power production: at least 30 % in 2013, gradually rising to 100 % in 2020. In order to prevent market distortion, recipient power producers must invest in clean technology to the market value of the permits.

**Solidarity mechanism:** the Directive provides for a solidarity mechanism in order to help less affluent EU states with the transition to a

low-carbon economy. They will receive an increased amount of emissions permits to auction, i.e. 12 % more than their actual share in overall EU GHG emissions. That will give them an opportunity of generating substantial revenues from selling allowances. Each EU state will determine the use of its revenues from auctioning the pollution permits. At least half of the proceeds should be used to fight climate change in the EU and abroad and also to alleviate the social consequences of moving towards a low-carbon economy.

Reducing auctioning: if international negotiations on climate change in Copenhagen, in December 2009, do not lead to a new international agreement on climate change, a number of sectors could be exposed to a risk of "carbon leakage", i.e. see investments and production move to third countries with lower environmental standards. With that in mind, Parliament and Council have introduced the possibility of reducing auctioning for a limited number of sectors. If an industry can demonstrate that purchasing permits significantly increases its costs (more than 5 % of its gross value added) and that it faces international competition (non-EU trade intensity above 10 %), it can qualify for the free allocation of its allowances. Full free allocation will not, however, exceed the level of an ambitious benchmark corresponding to the 10 % cleanest technologies in the EU. If an installation emits more than that, it will need to acquire allowances up to the level of its actual emissions. Substantial auctioning rates can therefore be expected even in exempt industry sectors. The Commission will determine the list of sectors in question no later than 31 December 2009, after discussions at the European Council.

The overall reduction of auctioning through these provisions could have an impact on the volume of the solidarity mechanism and diminish the redistribution in favour of less affluent EU members. For that reason the "carbon leakage" derogation is subject to further review before the start of the third trading period in 2013.

Clean technologies: up to 300 million emission allowances will be set aside for the financing of clean technologies (estimated value EUR 6 to 9bn). They will contribute to the funding of up to 12 demonstration projects in carbon capture and storage and also innovative renewable energy projects.

Lastly, the Directive includes provision for its adaptation after the conclusion of an international agreement to fight climate change and for a subsequent move beyond the EU's overall 20 % reduction target.

The reviewed ETS will apply from the start of its third trading period on 01/01/ 2013.

It should be noted that this Directive forms part of the climate-energy legislative package containing measures aimed at fighting climate change and promoting renewable energy. (See also [COD/2008/0014](#), [COD/2008/0015](#), [COD/2008/0016](#), [COD/2007/0019](#) and [COD/2007/0297](#)). The package is designed to achieve the EU's overall environmental target of a 20 % reduction in greenhouse gases and a 20 % share of renewable energy in the EU's total energy consumption by 2020.

ENTRY INTO FORCE: 25/06/2009.

TRANSPOSITION: 31/12/2012.