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BusinessEurope key positions on EU ETS reform ahead of the trialogue

	Issue	European Parliament	European Council and Commission	BusinessEurope position
1.	**Linear reduction factor**	2.2%, with option for 2.4% after 2024	**Council and Commission:** 2.2%	Keep the LRF at 2.2% as long as EU is most ambitious major economy.
2.	**Ratio auction-free allowances**	57%, up to 5% shift from auctioned to free allowances if the CSCF is triggered. Unused allowances reserved for the shift are cancelled (up to 200 million).	**Council**: 57%, up to 2% shift if CSCF is triggered. **Commission**: 57%.	Parliament position. 2% is highly inadequate to prevent the CSCF and protect sectors at risk of investment leakage up to the level of the best performers.
3.	**Benchmarks**	Benchmarks for the 2021-2025 period shall be updated according to 2016-2017 data and subject to a flat rate that is equal to the average improvement rate of the 10% most efficient installations between 2008 and 2023. Benchmarks for the 2026-2030 period are updated with 2021-2022 data and subject to a flat rate based on 2008-2028 data. With caps: 0.25% and 1.75%. Benchmarks for aromatics, hydrogen and syngas adjusted by same percentage as refineries benchmarks. Amendment 165: In benchmark calculations, the full carbon content of waste gases used for electricity production shall be taken into account.	**Council:** Same as Parliament, but with lower caps: 0.2% and 1.5%. **Commission:** No caps; flat rate will either be 0.5, 1, 1.5%, average improvement rates get a rounded up flat rate.	Council position, though BusinessEurope is not convinced of artificial flat rates. If the flat rates are not removed, they should be fully aligned with real data and flat rates should be estimated until the beginning of each period instead of the middle of the period (i.e. 2021 instead of 2023 for the 2021-2025 period, and 2026 instead of 2028 for the 2026-2030 period). More clarity should also be given to sectors that rely on fall-back benchmarks.

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4.	**Indirect costs**	EU fund consisting of 465 million allowances (310m auctioning and 155 free), in total 3% of total allowances, with possibility of national top-ups. This top up should be in line with state aid rules. The existing ceilings on state aid compensation shall continue to decline throughout the trading period.	**Council**: No EU fund. Member States will be "seeking to use no more than 25% of the revenues generated from auctioning for indirect cost compensation". MS should provide more transparency on amount of compensation. **Commission**: No EU fund. No cap to top up nor improved transparency.	Parliament text could be a compromise (Council text is no change from today), but only if other important points (i.e. 5% shift) are in the final compromise. Detailed stipulations on aid intensity and degression need to be kept out of the ETS directive. The extra transparency on actual compensation given by each Member State as mentioned in the Council position is acceptable. However, with an expected higher carbon price, the pressure of indirect costs will become stronger and cannot be met with declining compensation. It increases the need to properly address indirect cost compensation at the level of best performing installations and ensure a global level playing field as underlined in the European Council conclusions of October 2014.
5.	**MSR and cancellation**	Doubling of the intake rate from 12% to 24% until the market balance has restored, starting in 2019. 800 million allowances from the MSR will be cancelled in January 2021. Additional 200 million cancelled if not used for shift from auctioned to free allowances. MS may cancel allowances from their auctioning budget in case of closure of national electricity generation capacities.	**Council:** Doubling intake from 12% to 24% for 5 years, starting 2019. Furthermore, starting 2024, allowances held in the MSR above a total number of allowances auctioned during the previous year shall no longer be valid. **Commission**: 12% intake rate.	Support doubling of the intake and outtake rate, but the Council text lacks a good understanding and assessment of the impacts. Any increase in ambition should be accompanied by more focus on making sure industry gets enough free allowances up to the level of the benchmark, i.e. through a 5% shift from auctioned to free allowances, an adequate compensation of indirect costs at the level of best performers and the Funds (Innovation Fund, Modernisation Fund, New Entrance Reserve) coming from the auctioning share.

6.	**Qualitative assessment**	The threshold will be lowered from 0.2 to 0.12.	**Council:** 0.16 threshold **Commission:** 0.2 threshold.	Parliament position. A threshold of 0.12 would make about 19 additional sectors eligible for such an assessment, which should be manageable in terms of administrative burden for the Commission. We are not asking to put all sectors on the carbon leakage list, we are simply asking for them to be able to "sit the exam".
7.	**PRODCOM**	Sectors will be allowed to be assessed at a more disaggregated level (e.g. PRODCOM) than the current NACE coding.	**Council:** Possibility to request an assessment at a 6-digit or an 8-digit level (Prodcom), but only for (sub-)sectors previously considered as exposed to carbon leakage at Prodcom level, also considering that certain NACE codes, in particular those ending with .99, regroup heterogeneous activities not elsewhere classified (n.e.c.). Where a sector or subsector is subject to the refineries benchmark and another product benchmark, this circumstance should be taken into account. **Commission:** Only NACE.	Parliament position as it's more flexible. Council position creates extra hurdles to allow for qualification at Prodcom level. Solely focusing on NACE is inadequate and discriminatory for those sectors whose operations fall under PRODCOM codes, hence the Commission proposal is inadequate as well.
8.	**New Entrance Reserve**	400 million, taken from free allowances under Phase IV (because this is under Art. 10a).	**Council and Commission:** 250 million from MSR, plus unallocated Phase III allowances (unspecified how many).	Council and Commission position. Taking free allowances away from industry would increase the chances that there will be a shortage of free allowances and that the CSCF is triggered at some point in Phase IV.

9.	**Dynamic allocation**	Installation allocation from the new entrance reserve (NER) shall change with increases or decreases in production of at least 10%.	**Council:** At least 15% increase or decrease. **Commission**: "Significant production increases by applying the same thresholds and allocation adjustments as apply in respect of partial cessations of operation."	Parliament position, because the lower threshold more closely aligns to the real dynamics of economic development.
10.	**Small emitters**	Threshold is raised to 50,000 tCO2e/year, but only SMEs with less than 50,000 t may opt for national equivalent measures in MS where they are available.	**Council:** Also referred to as "small installation". No thresholds mentioned. No definitions. Member States will review every 3 years whether opted out small emitters are delivering similar emission reductions. **Commission**: 25,000-threshold.	Council position, if there is a clear 50,000 threshold and clear definition of a small installation.
11.	**Carbon leakage list**	No tiered approach. 30% is gone except for district heating.	**Council and Commission:** Binary approach. 30% sectors are included.	Council and Commission position.
12.	**CSCF**	Thresholds apply that will exempt certain sectors if the CSCF is triggered.	**Council and Commission:** No thresholds. If applied, it is applied in a "non-discriminatory and uniform manner".	Council and Commission position. CSCF should be prevented as much as possible, but if it is applied it should be done so in uniform manner.
13.	**Innovation Fund**	Increase from 400 to 600 million, paid from auctioned allowances.	**Council and Commission:** 400 million funded with free allowances, plus 50 unallocated allowances from the MSR.	Parliament position. BusinessEurope applauds the Innovation Fund as an important way to support low-carbon industrial investments, but taking free allowances away from industry to finance the Fund would add pressure to industry to buy more auctioned allowances, which risks channelling away

				funds that industry was itself already investing in low-carbon innovation, thereby annulling the added value of the Fund.
14.	**Modernisation Fund** **(Art. 10 and 10d)**	2% of total EU ETS allowances, but this 2% is part of the 57% (= auctioned allowances). Beneficiary (low-income) Member States should be responsible for its governance. Under Article 10 c, there is an introduction of an emission performance standard (EPS) of 450 g CO_2/kWh for investments under the transitional free allocation mechanism.	**Council:** 2% part of the 57% (like Parliament). However, no EPS. Beneficiaries are responsible. Greece cannot use the Modernisation Fund, but will be given 20 million allowances from the New Entrance Reserve (NER) to co-finance decarbonisation of its electricity supply of islands within its territory.	Council position, due to streamlined governance and the absence of an emissions performance standard (EPS). Instead of an EPS, it is important to find a market-based solution for coal-to-gas switching.
15.	**Just Transition Fund**	2% of auction revenues, used to support regions that combine a high share of workers in carbon-dependent sectors with a low GDP per capita.	**Council and Commission:** No mentioning.	No preference (as long as it doesn't touch the free allowances).
16.	**Border adjustments**	The Commission shall assess the development of climate policies in third countries and their effect on competitiveness of European industry. If the risk of carbon leakage remains significant and if appropriate, the Commission shall come forward with a legislative proposal introducing a border adjustment mechanism (BAM), in line with WTO rules.	**Council and Commission:** No mentioning	Council and Commission position. No border adjustments.