

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030
contributing to climate action to meet commitments under the Paris Agreement and amending
Regulation (EU) No 525/2013**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission¹,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

- (1) A binding target of at least a 40% domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 was endorsed in the European Council *conclusions* of 23-24 October 2014 on the 2030 climate and energy policy framework and this was reconfirmed *in its conclusions of 17-18 March 2016*.

- (2) The European Council conclusions of **23-24** October 2014 *stated* that the target should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the *Union emissions trading system ("EU ETS") laid down in Directive 2003/87/EC of the European Parliament and of the Council*¹ and non-ETS sectors amounting to 43 % and 30 % by 2030 compared to 2005 respectively . All sectors of the economy should contribute to achieving these emission reductions, and all Member States should participate in this effort, balancing considerations of fairness and solidarity. *The methodology to set the national reduction targets for the non-ETS sectors, with all the elements applied in Decision No 406/2009/EC of the European Parliament and of the Council*², *should be continued until 2030 with efforts distributed on the basis of relative Gross Domestic Product (GDP) per capita. All Member States will contribute to the overall EU reduction in 2030 with the targets spanning from 0 % to -40 % compared to 2005. National* targets within the group of Member States with a GDP per capita above the Union average should be relatively adjusted to reflect cost-effectiveness in a fair and balanced manner. Achieving these greenhouse gas emission reductions should boost efficiency and innovation in the European economy and in particular should promote improvements, notably in buildings, agriculture, waste management and transport, in so far as they fall under the scope of this Regulation.

¹ *Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275 25.10.2003, p. 32).*

² *Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 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 (OJ L 140, 5.6.2009, p. 136).*

- (3) ***This Regulation also implements contributions of the Union under the Paris Agreement¹ adopted under the United Nations Framework Convention on Climate Change ("UNFCCC") which was ratified on behalf of the Union on 5 October 2016 in accordance with Council Decision (EU) 2016/1841². The commitment of the Union to economy-wide emission reductions is contained in the intended nationally determined contribution submitted in view of the Paris Agreement by the Union and its Member States to the Secretariat of the UNFCCC on 6 March 2015. The Paris Agreement entered into force on 4 November 2016 and replaces the approach taken under the 1997 Kyoto Protocol which will not be continued beyond 2020.***

¹ ***OJ L 282, 19.10.2016, p. 4.***

² ***Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 1).***

- (4) *The Paris Agreement sets out a long-term goal in line with the objective to keep the global temperature increase well below 2°C above pre- industrial levels and to pursue efforts to keep it to 1,5°C above pre-industrial levels. It also stresses the importance to adapt to the adverse impacts of climate change and to make finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. The Paris Agreement also calls for a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century. According to the Paris Agreement, Parties should take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases, including forests.*

- (5) *At its meeting on 29/30 October 2009, the European Council supported an EU objective, in the context of necessary reductions according to the IPCC by developed countries as a group, to reduce emissions by 80-95% by 2050 compared to 1990 levels.*
- (6) *The nationally determined contributions (NDCs) of the Parties to the Paris Agreement are to reflect their highest possible ambition and represent a progression over time. In addition, Parties to the Paris Agreement should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of the objectives of the Paris Agreement. The Council conclusions of 13 October 2017 recognise the importance of the long term goals and the five-year review cycles in the implementation of the Paris Agreement and highlight the importance of long-term low greenhouse gas emission development strategies as a policy tool for developing reliable pathways and the long term policy changes needed to achieve the goals of the Paris Agreement.*

- (7) The transition to clean energy requires changes in investment behaviour and incentives across the entire policy spectrum. It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving this requires continuation of ambitious climate action with this Regulation and progress on the other aspects of Energy Union as set out in the *Communication from the Commission entitled "A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy"*¹.
- (8) This Regulation *should cover* emissions from the Intergovernmental Panel on Climate Change (IPCC) categories energy, industrial processes and product use, agriculture and waste as determined pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council² excluding emissions from the activities listed in Annex I to Directive 2003/87/EC. *Without prejudice to Articles 7 and 9(2) of this Regulation, activities covered by Regulation (EU) .../... of the European Parliament and of the Council [LULUCF]^{3*} should not be covered by this Regulation.*

¹ 6594/15 - COM(2015)80 Final.

² Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC (OJ L 165, 18.6.2013, p. 13).

³ *Regulation .../... of the European Parliament and of the Council on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework and amending Regulation (EU) No 525/2013 (OJ ...).*

* *See doc. 11494/2016 [LULUCF].*

- (9) Data currently reported in the national greenhouse gas inventories and the national and Union registries are not sufficient to determine, at Member State level, the CO₂ civil aviation emissions at national level that are not covered by Directive 2003/87/EC. In adopting reporting obligations, the Union should not impose upon Member States and small and medium-sized enterprises (SMEs) burdens that are disproportionate to the objectives pursued. CO₂ emissions from flights not covered by Directive 2003/87/EC represent only a very minor part of the total greenhouse gas emissions, and establishing a reporting system for these emissions would be unduly burdensome in the light of existing requirements for the wider sector pursuant to Directive 2003/87/EC. Therefore, CO₂ emissions from IPCC source category '1.A.3.A civil aviation' should be treated as being equal to zero for the purposes of this Regulation.
- (10) The reduction of *the greenhouse gas emissions of* each Member State for 2030 should be determined in relation to the level of its 2005 reviewed greenhouse gas emissions covered by this Regulation, excluding verified emissions from installations that operated in 2005 *and* which were only included in the EU ETS after 2005. Annual emissions allocations for 2021 to 2030 should be determined on the basis of data submitted by the Member States and reviewed by the Commission.

- (11) The approach of annually binding national limits taken in Decision No 406/2009/EC should be continued from 2021 to 2030. *The rules for setting out the annual emission allocations for each Member State as laid down in this Regulation follow the same methodology as for Member States with negative limits under that Decision but* with the start of the trajectory calculation *at five twelfths of the distance from 2019 to 2020 or* in 2020 on the average of the greenhouse gas emissions during 2016 to 2018 and the end of the trajectory being the 2030 limit for each Member State. *The start date of the trajectory should be determined for each Member State on the basis of which date results in a lower allocation to ensure appropriate contributions to the Union’s greenhouse gas emission reduction target for the period from 2021 to 2030.* An adjustment to the allocation in 2021 is provided for Member States with both a positive limit under Decision 406/2009/EC and increasing annual emission allocations between 2017 and 2020 determined pursuant to *Commission Decision* 2013/162/EU¹ and *Commission Implementing Decision* 2013/634/EU², to reflect the capacity for increased emissions in those years.

¹ **Commission Decision 2013/162/EU of 26 March 2013 on determining Member States’ annual emission allocations for the period from 2013 to 2020 pursuant to Decision No 406/2009/EC of the European Parliament and of the Council (OJ L 90, 28.3.2013, p. 106).**

² **Commission Implementing Decision 2013/634/EU of 31 October 2013 on the adjustments to Member States’ annual emission allocations for the period from 2013 to 2020 pursuant to Decision No 406/2009/EC of the European Parliament and of the Council (OJ L 292, 1.11.2013, p. 19).**

An additional adjustment should be provided for certain Member States in recognition of their exceptional situation of having both a positive limit under Decision No 406/2009/EC and either the lowest greenhouse gas emissions per capita under that Decision or the lowest share of greenhouse gas emissions from sectors not covered by that Decision compared to their total greenhouse gas emissions. The additional adjustment should only cover part of the emission reductions needed in the period from 2021 to 2029 to maintain incentives for additional emission reductions and not to impact the 2030 target achievement, taking into account the use of other adjustments and flexibilities provided for under this Regulation.

- (12) A new one-off flexibility is created in order to facilitate the achievement of targets for Member States with national reduction targets significantly above both the Union average and their cost effective reduction potential as well as for Member States that did not allocate any allowances for free to industrial installations in **2013**.
- (13) *To preserve the aim of the Market Stability Reserve established by Decision (EU) 2015/1814¹ of the European Parliament and the Council to tackle structural supply-demand imbalances in the EU ETS, the allowances used for the one-off flexibility should be taken into account as allowances in circulation when determining the total number of allowances in circulation in a given year. The Commission should in its first review under that Decision consider whether to maintain such accounting as allowances in circulation.*

¹ *Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L264, 9.10.2015, p. 1).*

- (14) *In recognition of the previous efforts made since 2013 of those Member States which had a GDP per capita below the Union average in 2013, it is appropriate to establish a limited special purpose safety reserve corresponding to up to 105 million tonnes CO₂ equivalent, while maintaining the environmental integrity of this Regulation as well as incentives for Member States' actions beyond the minimum contributions under this Regulation. The reserve should benefit Member States whose GDP per capita were below Union average in 2013 and whose emissions remain below their annual emission allocations from 2013 to 2020 and which have problems to achieve their 2030 emission target despite using other flexibilities provided for in this Regulation. A reserve of this size would cover a significant part of the projected collective deficit of eligible Member States in the period 2021 to 2030, without additional policies, while maintaining incentives for additional action. The reserve should be available to those Member States in 2032, under certain conditions and provided that its use does not undermine the achievement of the greenhouse gas emission reduction target of the Union of 30% for the year 2030 in the sectors covered by this Regulation.*

- (15) A range of Union measures enhance Member States' ability to meet their climate commitments and are crucial to achieving necessary emission reductions in the sectors covered by this Regulation. These include legislation on fluorinated greenhouse gases, CO₂-reductions from road vehicles, energy performance of building, renewables, energy efficiency and the Circular Economy, as well as Union funding instruments for climate-related investments.
- (16) *The deployment and development of sustainable and innovative practices and technologies can enhance the role of the agricultural sector in relation to climate mitigation and adaptation, in particular by reducing emissions and by maintaining and enhancing sinks and carbon stocks. To reduce the carbon and ecological footprint of the agricultural sector, whilst maintaining its productivity, regeneration capacity and vitality, it is important to enhance climate mitigation and adaption action and research funding for the development of, and investments in sustainable and innovative practices and technologies.*

- (17) *The conclusions of the European Council of 19 and 20 March 2015 noted that the EU is committed to building an Energy Union with a forward-looking climate policy on the basis of the Commission's framework strategy, whose five dimensions are closely interrelated and mutually reinforcing. Moderation of energy demand is one of the five dimensions of that Energy Union Strategy. Improving energy efficiency can deliver significant reductions in greenhouse gas emissions. It can also benefit the environment and health, improve energy security, cut energy costs for households and companies, help alleviate energy poverty and lead to increased jobs and economy-wide economic activity. Measures which contribute to an increased uptake of energy-saving technologies in buildings, industry and transport could be a cost-effective way of helping Member States achieve their targets under this Regulation.*

- (18) *The transport sector represents almost a quarter of the Union's greenhouse gas emissions. It is therefore important to reduce greenhouse gas emissions and risks related to fossil fuel dependency in the transport sector through a comprehensive approach for the promotion of emission reductions and energy efficiency in transport, for electric transportation, a shift of transport modes, where more sustainable, and for sustainable renewable energy sources in transport also after 2020. The shift towards the low-emission mobility as part of the broader shift to a safe and sustainable low-carbon economy can be facilitated through the introduction of enabling conditions and strong incentives, as well as long-term strategies that can enhance investments.*
- (19) *The impact of national and Union policies and measures implementing this Regulation should be assessed in line with the monitoring and reporting obligations under Regulation (EU) No 525/2013.*

(20) **Regulation [LULUCF]** lays down accounting rules on greenhouse gas emissions and removals relating to land use, land-use change and forestry (LULUCF). While the environmental outcome under this Regulation in terms of the levels of greenhouse gas emission reductions that are made is affected by taking into account a quantity up to the sum of total net removals and total net emissions from deforested land, afforested land, managed cropland , managed grassland **and, where made mandatory under Regulation [LULUCF], managed wetland** as defined in *that* Regulation, flexibility for a maximum quantity of 280 million tonnes of CO₂ equivalent of these removals divided among Member States according to the figures in Annex III should be included as an additional possibility for Member States to meet their commitments when needed. ***The total amount and the division among Member States acknowledge the lower mitigation potential of agriculture and land use sector and an appropriate contribution of the sector to GHG mitigation and sequestration. Where*** the forest reference levels ***are*** adopted ***pursuant to Article 8(6) or 8(7) of Regulation [LULUCF]***, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to reflect a contribution of the accounting category managed forest land in the flexibility provided by ***this Regulation. In addition, voluntary deletions of annual emission allocations*** under this Regulation ***should*** allow for such amounts to be taken into account when assessing Member States' compliance with requirements under Regulation [LULUCF].

- (21) *The agricultural sector has direct and significant impact on biodiversity and ecosystems. For this reason, it is important to ensure the coherence between the objective of this Regulation and other Union policies and objectives, such as the Common Agricultural Policy and objectives related to the biodiversity strategy, the forestry strategy and circular economy strategy.*
- (22) *Without prejudice to the powers of the budgetary authority, the mainstreaming methodology implemented during the 2014-2020 Multiannual Financial Framework should, where appropriate, be continued and improved with a view to responding to the challenges and investment needs related to climate action as of 2021 onwards. Union funding should be coherent with the objectives of the Union's 2030 climate and energy policy framework and the long-term objectives expressed in the Paris Agreement, so as to ensure the effectiveness of public spending. The Commission should prepare a report on the impact of EU funding granted from the Union budget or otherwise pursuant to Union law on the greenhouse gas emissions in the sectors covered by this Regulation or Directive 2003/87/EC.*

- (23) In order to ensure efficient, transparent and cost-effective reporting and verification of greenhouse gas emissions and of other information necessary to assess progress with Member State's annual emissions allocations, the requirements for annual reporting and evaluation under this Regulation *should be* integrated with the relevant Articles under Regulation (EU) No 525/2013. *That* Regulation should also ensure that *the* progress of Member States in *reducing emissions* continues to be evaluated annually, taking into account progress in Union policies and measures and information from Member States. Every two years, the evaluation should include the projected progress of the Union towards meeting its reduction *targets* and of Member States towards fulfilling their obligations. However, the application of deductions should only be considered at five-year intervals, so that the potential contribution from deforested land, afforested land, managed cropland and managed grassland taking place pursuant to Regulation [*LULUCF*] can be considered. This is without prejudice to the duty of the Commission to ensure compliance with the obligations of Member States resulting from this Regulation or to the power of the Commission to initiate infringement proceedings for this purpose.
- (24) *Regulation (EU) No 525/2013 should be amended accordingly.*

- (25) *On 30 November 2016, the Commission presented a proposal for a Regulation on the Governance of the Energy Union, which requires Member States to draw up integrated national energy and climate plans in the context of strategic energy and climate policy planning for all five key dimensions of the Energy Union. According to that proposal, the national plans covering the period from 2021 to 2030 are to play a key role in Member States' planning of their compliance with this Regulation and the [LULUCF] Regulation. To that end, they are to set out the policies and measures to meet the obligations under this Regulation and the [LULUCF] Regulation, with an outlook to the long-term goal to achieve a balance between emissions and removals in accordance with the Paris Agreement. The plans are also to set out an assessment of the impacts of the planned policies and measures to meet the objectives. Under the proposed [Governance] Regulation, the Commission may indicate in its recommendations on the draft national plans the appropriateness of the level of ambition and of the subsequent implementation of policies and measures. The possible use of the LULUCF flexibility to comply with this Regulation should be taken into account when compiling the national energy and climate plans.*

- (26) *In its conclusions of 23-24 October 2014, the European Council stated that the availability and use of existing flexibility instruments within the non-ETS sectors should be significantly enhanced in order to ensure cost-effectiveness of the collective Union effort and convergence of emissions per capita by 2030.* As a means to enhance the overall cost-effectiveness of total reductions, Member States should be able to *bank and borrow part of their annual emission allocations. They should also be able to* transfer part of their annual emission allocation to other Member States. The transparency of such transfers should be ensured and carried out in a manner that is mutually convenient, including by means of auctioning, the use of market intermediaries acting on an agency basis, or by way of bilateral arrangements. *Any such transfer may be the result of a greenhouse gas mitigation project or programme carried out in the selling Member State and financed by the receiving Member State. In addition, Member States should be able to encourage the establishment of public-private partnerships for projects under Article 24a (1) of Directive 2003/87/EC.*
- (27) The European Environment Agency aims to support sustainable development and to help achieve significant and measurable improvement in *the* environment by providing timely, targeted, relevant and reliable information to policy-makers, public institutions and the public. The European Environment Agency should assist the Commission, as appropriate in accordance with its annual work programme.

- (28) In order to provide for the appropriate accounting of transactions under this Regulation, including the use of flexibilities , the application of compliance checks *and the accurate functioning of the reserve*, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of *ensuring the accurate accounting under this Regulation through the Union Registry. Information regarding accounting under this Regulation should be accessible to the public*. The necessary provisions should be contained in a single instrument combining the accounting provisions pursuant to Directive 2003/87/EC, Regulation (EU) No 525/2013, Regulation [LULUCF] and this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, *and that those consultations be* conducted in accordance with the principles laid down in the *Interinstitutional Agreement of 13 April 2016* on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and *the* Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (29) In order to ensure uniform conditions for the implementation of Article 4 according to which annual emission limits for Member States will be established, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
- (30) This Regulation *is* without prejudice to more stringent national objectives.
- (31) Any adjustments in the coverage as set out in Articles 11, 24, 24a and 27 of Directive 2003/87/EC should be matched by a corresponding adjustment in the maximum quantity of greenhouse gas emissions covered by this Regulation. Consequently, where Member States include additional emissions into their commitments under this Regulation from installations that were previously covered by Directive 2003/87/EC, those Member States should implement additional policies and measures in the sectors covered by this Regulation in order to reduce those emissions.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (32) This Regulation should be reviewed as of 2024 and every 5 years thereafter in order to assess its overall functioning, *in particular with regard to the need for increased stringency of Union policies and measures, including this Regulation*. The review should take into account, *inter alia*, evolving national circumstances and be informed by the results of the *2018 Facilitative Dialogue and the Global Stocktake under the Paris Agreement*. *As part of the review, the balance between supply and demand for allocations should also be considered to ensure the adequacy of the obligations laid down by this Regulation. In addition, as part of its regular reporting under Regulation (EU) No 525/2013, the Commission should also assess the outcome of the 2018 Facilitative Dialogue by 31 October 2019. The review for the period after 2030 should be in line with the long-term objectives and the commitments made under the Paris Agreement, and to this end, it should reflect a progression over time.*

- (33) Since the objectives of this Regulation, *in particular to lay down obligations on the Member States with respect to their minimum contributions to the Union's greenhouse gas emission reduction target for the period from 2021 to 2030*, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down obligations on the *Member States with respect to their* minimum contributions for the period from 2021 to *2030 to fulfilling the Union's target of reducing its greenhouse gas emissions by 30 % below 2005 levels in 2030 in the sectors covered by Article 2 and contributes to achieving the objectives of the Paris Agreement. This Regulation also lays down* rules on determining annual emission allocations and for the evaluation of Member States' progress towards meeting their minimum contributions.

Article 2

Scope

1. This Regulation applies to the greenhouse gas emissions from IPCC source categories of energy, industrial processes and product use, agriculture and waste as determined pursuant to Regulation (EU) No 525/2013, excluding emissions from the activities listed in Annex I to Directive 2003/87/EC.
2. ***Without prejudice to Articles 7 and 9(2) of this Regulation, this*** Regulation does not apply to greenhouse gas emissions and removals covered by Regulation [LULUCF].
3. For the purposes of this Regulation, CO₂ emissions from IPCC source category '1.A.3.A civil aviation' shall be treated as zero.

Article 3

Definitions

For the purposes of this Regulation:

1. 'Greenhouse gas emissions' means emissions in terms of tonnes of CO₂ equivalent of carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), nitrogen trifluoride (NF₃) and sulphur hexafluoride (SF₆) determined pursuant to Regulation (EU) No 525/2013 and falling within the scope of this Regulation;
2. 'Annual emission allocations' means the maximum allowed greenhouse gas emissions for each year between 2021 and 2030 determined pursuant to Article 4(3) and Article 10.
- (3) ***"EU ETS allowance" means an "allowance" as defined in point (a) of Article 3 of Directive 2003/87/EC.***

Article 4

Annual emission levels for the period from 2021 to 2030

1. Each Member State shall, in 2030, limit its greenhouse gas emissions at least by the percentage set for that Member State in Annex I to this Regulation in relation to its emissions in 2005 determined pursuant to paragraph 3.
2. Subject to the flexibilities provided for in Articles 5, 6 and **7 of this Regulation**, to the adjustment pursuant to Article 10(2) **of this Regulation** and taking into account any deduction resulting from the application of Article 7 of Decision No 406/2009/EC, each Member State shall ensure that its greenhouse gas emissions in each year between 2021 and 2029 do not exceed the *limit* defined by a linear trajectory, starting on the average of its greenhouse gas emissions during 2016, 2017 and 2018 determined pursuant to paragraph 3 **of this Article** and ending in 2030 on the limit set for that Member State in Annex I to this Regulation. ***The linear trajectory of a Member State shall start at five twelfths of the distance from 2019 to 2020 or in 2020, whichever results in a lower allocation for that Member State.***

3. The Commission shall adopt implementing **acts** setting out the annual emission allocations for the years from 2021 to 2030 in terms of tonnes of CO₂ equivalent as specified in paragraphs 1 and 2. For the purposes of *those* implementing **acts**, the Commission shall carry out a comprehensive review of the most recent national inventory data for the years 2005 and 2016 to 2018 submitted by Member States pursuant to Article 7 of Regulation (EU) No 525/2013. *Those acts shall also indicate the value for the 2005 emissions of each Member State as used to determine the annual emissions allocations specified in paragraphs 1 and 2 of this Article.*
4. *Those* implementing **acts** shall also specify, based on the percentages notified by Member States under Article 6(2), the **total** quantities that may be taken into account for *a Member State's* compliance under Article 9 between 2021 and 2030. If the sum of all Member States' **total** quantities were to exceed the collective total of 100 million, the **total** quantities for each Member State shall be reduced on a pro rata basis so that the collective total is not exceeded.
5. *Those* implementing **acts** shall be adopted in accordance with the examination procedure referred to in Article 14.

Article 5

Flexibility instruments to achieve annual limits

1. ***In respect of the years 2021 to 2025, a Member State may borrow a quantity of up to 10% from its annual emission allocation for the following year.***
2. In respect of the years **2026** to 2029, a Member State may borrow a quantity of up to 5% from its annual emission allocation for the following year.
3. A Member State whose greenhouse gas emissions for a given year are below its annual emission allocation for that year, taking into account the use of flexibilities pursuant to this Article and Article 6, may
 - ***in respect of the year 2021*** bank that excess part of its annual emission allocation ***to subsequent years until 2030;***
 - ***in respect of the years 2022 to 2029, bank the excess part of its annual emission allocation up to a level of 30% of its annual emission allocations up to that year*** to subsequent years until 2030.

4. A Member State may transfer up to 5% of its annual emission allocation for a given year to other Member States *in respect of the years 2021 to 2025, and up to 10 % in respect of the years 2026 to 2030*. The receiving Member State may use this quantity for compliance under Article 9 for the given year or for subsequent years until 2030.
5. A Member State *whose reviewed* greenhouse gas emissions *for a given year are below its annual emission allocation* for that year, taking into account the use of flexibilities pursuant to paragraphs *1* to 4 *of this Article* and Article 6, *may transfer that excess part of its annual emission allocation* to other Member States. A receiving Member State may use this quantity for compliance under Article 9 for that year or *for subsequent years* until 2030.
6. *Member States may use revenues generated by transfers of allocations pursuant to paragraphs 4 and 5 to tackle climate change in the Union or in third countries. Member States shall inform the Commission of any actions taken pursuant to this paragraph.*

7. *Any transfer pursuant to paragraphs 4 and 5 of this Article may be the result of a greenhouse gas mitigation project or programme carried out in the selling Member State and remunerated by the receiving Member State, while avoiding double counting and ensuring traceability.*
8. Member States *may* use credits from projects issued pursuant to Article 24a (1) of Directive 2003/87/EC for compliance under Article **9 of this Regulation**, without any quantitative limit and while avoiding double-counting.

Article 6

Flexibility for certain Member States following reduction of EU ETS allowances

1. *The Member States **listed in Annex II** may have a limited cancellation of up to a maximum of 100 million EU ETS allowances collectively taken into account for their compliance under this Regulation . That cancellation shall be made from the auctioning volumes of the Member State concerned pursuant to Article 10 of Directive 2003/87/EC. The allowances used under this flexibility shall be taken into account as allowances in circulation pursuant to Article 12(4) of Directive 2003/87/EC for the purposes of Article 1(4) of Decision 2015/1814. The Commission shall in its first review under that Decision consider whether to maintain such accounting as allowances in circulation.*

2. Member States listed in Annex II shall notify the Commission by 31 December 2019 of any intention to make use of *the* limited cancellation of *EU ETS* allowances *referred to in paragraph 1 of this Article*, up to the percentage listed in Annex II for *each year of the period from 2021 to 2030 for each* Member State *concerned*, for *its* compliance under Article 9. *Member States listed in Annex II may decide to revise the previously notified percentage downwards twice during the period, i.e. in 2024 and 2027. In such case, they shall notify the Commission of that decision by 31 December 2024 and, if necessary, by 31 December 2027.*
3. At a Member State's request, the Central Administrator designated under Article 20 of Directive 2003/87/EC ("the Central Administrator") shall take into account *an amount up to* the *total* quantity referred to in Article 4(4) *of this Regulation* for that Member States' compliance under Article *9 of this Regulation*. One-tenth of the quantity of *EU ETS* allowances determined pursuant to Article 4(4) *of this Regulation* shall be cancelled pursuant to Article 12(4) of Directive 2003/87/EC for each year from 2021 to *2030 for that Member State*.

4. ***Where a Member State, in accordance with paragraph 2 of this Article, has notified the Commission of its decision to revise the previously notified percentage, a correspondingly lower quantity of allowances shall be cancelled for that Member State in respect of each of the years 2026 to 2030 and 2028 to 2030, respectively.***

Article 7

Additional use of up to 280 million

net removals from land ***use, land use change and forestry***

1. To the extent that a Member State's emissions exceed its annual emission allocations for a given year, ***including any emission allocations banked pursuant to Article 5(3)***, a quantity up to the sum of total net removals and total net emissions from the combined accounting categories of deforested land, afforested land, managed cropland and managed grassland, ***and, subject to the delegated acts adopted pursuant to paragraph 2, managed forest land and accounted wetland***, referred to in Article 2 of Regulation [LULUCF] may be taken into account for its compliance under Article 9 of this Regulation for that year, provided that:
- (a) the cumulative quantity taken into account for that Member State for all years of the period from 2021 to 2030 does not exceed the ***maximum amount*** set in Annex III for that Member State;

- (b) such quantity is in excess of that Member State's requirements under Article 4 of Regulation [LULUCF];
- (c) the Member State has not acquired more net removals under Regulation [LULUCF] from other Member States than it has transferred;
- (d) the Member State has complied with the requirements of Regulation [LULUCF];
and
- (e) *that Member State has submitted the description of the intended use of the flexibility available under this Article pursuant to Article 16(1)(b).*

2. ***The Commission shall adopt delegated acts in accordance with Article 13 of this Regulation to amend the title of Annex III in respect of the accounting categories*** in order to:

- (a) reflect *the* contribution of the accounting category managed forest land *while respecting the total amounts for each Member State referred to in Annex III, where the forest reference levels are adopted pursuant to Article 8(6) or 8(7) of Regulation [LULUCF]; and*

- (b) *reflect the contribution of the accounting category managed wetland while respecting the total amounts for each Member State referred to in Annex III, where all Member States are required to account for this category under Regulation [LULUCF].*

Article 8

Corrective action

1. *If the Commission finds, in its annual assessment under Article 21 of Regulation (EU) No 525/2013 and taking into account the intended use of flexibilities referred to in Articles 5 to 7 of this Regulation that a Member State is not making sufficient progress towards meeting its obligations under Article 4 of this Regulation, that Member State shall, within three months, submit to the Commission a corrective action plan that includes:*
 - (a) *additional* actions that the Member State shall implement in order to meet its specific obligations under Article **4 of this Regulation**, through domestic policies and measures and the implementation of Union action;
 - (b) a *strict* timetable for implementing such actions, which enables the assessment of annual progress in implementation.

2. The European Environment Agency shall assist the Commission in its work to *assess any such* plans in accordance with its annual work programme.
3. *The Commission may issue an opinion regarding the robustness of the corrective action plans submitted in accordance with paragraph 1 and shall in that case do so within four months of receipt of those plans. The Member State concerned shall take utmost account of the Commission's opinion and may revise its plan accordingly.*

Article 9

Compliance check

1. In 2027 and 2032, if the reviewed greenhouse gas emissions of a Member State exceed its annual emission allocation for any specific year of the period, pursuant to paragraph 2 of this Article and the flexibilities used pursuant to Articles 5 to 7, the following measures shall apply:
 - (a) an addition to the Member State's emission figure of the following year equal to the amount in tonnes of CO₂ equivalent of the excess greenhouse gas emissions, multiplied by a factor of 1.08, in accordance with the measures adopted pursuant to Article 12; and

- (b) the Member State shall be temporarily prohibited from transferring any part of its annual emission allocation to another Member State until it is in compliance with **Article 4 of** this Regulation. The Central Administrator shall implement this prohibition in the registry referred in Article 12.
- 2. If the greenhouse gas emissions of a Member State in either the period from 2021 to 2025 or the period from 2026 to 2030 under Regulation [**LULUCF**] exceeded its greenhouse gas removals, as determined in accordance with Article 12 of that Regulation, there shall be a deduction from that Member State's annual emission allocations equal to the amount in tonnes of CO₂ equivalent of those excess greenhouse gas emissions for the relevant years.

Article 10

Adjustments

- 1. The annual allocations for each Member State under Article 4 of this Regulation shall be adjusted, so as to reflect:
 - (a) adjustments to the number of **EU ETS** allowances issued pursuant to Article 11 of Directive 2003/87/EC that **resulted** from a change in the coverage of sources under that Directive, ***in accordance with the Commission Decisions adopted pursuant to that Directive on the final approval of the national allocation plans for the period from 2008 to 2012;***

- (b) adjustments to the number of *EU ETS* allowances or credits respectively issued pursuant to Articles 24 and 24a of Directive 2003/87/EC in respect of emission reductions in a Member State; and
 - (c) adjustments to the number of *EU ETS* allowances pertaining to greenhouse gas emissions from installations excluded from the EU ETS in accordance with Article 27 of Directive 2003/87/EC for the time that they are excluded.
2. The amount contained in Annex IV to this Regulation shall be added to the allocation for the year 2021 for each Member State referred to in that Annex.
 3. The Commission shall publish the figures resulting from such adjustments.

Article 11

Safety reserve

- 1. A safety reserve corresponding to a quantity of up to 105 million tonnes CO₂ equivalent shall be established in the Union Registry subject to the fulfilment of the Union target referred to in Article 1. It shall be available in addition to the flexibilities provided for in Articles 5, 6 and 7.*
- 2. A Member State may benefit from the reserve referred to in paragraph 1 provided that all of the following conditions are fulfilled:*
 - (a) its GDP per capita at market prices in 2013, as published by EUROSTAT in April 2016, was below the Union average;*
 - (b) its cumulative emissions for the years 2013 to 2020 in the sectors covered by this Regulation are below its cumulative annual emission allocations for the years 2013 to 2020; and*

(c) *it has exhausted the flexibilities pursuant to Article 5(2) and 5(3), it has made the maximum possible use of net removals according to Article 7 even if that quantity does not reach the level set in Annex III, it has made no net transfers to other Member States under Article 5, and its emissions nevertheless exceed its annual emission allocations in the period from 2026 to 2030.*

3. *A Member State, which meets the conditions set out in paragraph 2, shall receive an additional quantity from the reserve up to its shortfall to be used for compliance under Article 9. That quantity shall not exceed 20% of its overall overachievement in the period from 2013 to 2020. If the resulting collective quantity of all the Member States which fulfil the conditions set out in paragraph 2 exceeds the limit referred to in paragraph 1, the quantity for each of those Member States shall be reduced on a pro rata basis.*

Any amount remaining in the reserve after the distribution set out in the first subparagraph shall be distributed among the Member States referred to in that subparagraph proportionally to their remaining shortfall but not exceeding it. Such quantity may for each of those Member States be in addition to the percentage referred to in the first subparagraph.

After the completion of the review referred to in Article 19 of Regulation (EU) No 525/2013 for the year 2020, the Commission shall publish the maximum amounts referred to in the second sentence of the first subparagraph of paragraph 3 of this Article for each Member State referred to in points (a) and (b) of paragraph 2.

Article 12

Registry

1. The Commission shall ***adopt delegated acts in accordance with Article 13 to supplement this Regulation in order to*** ensure the accurate accounting under this Regulation through the Union Registry established pursuant to Article 10 of Regulation (EU) No 525/2013 ***in respect of:***
 - (a) annual emission allocations ;
 - (b) flexibilities exercised under ***Articles 5 to 7 of this Regulation;***
 - (c) compliance ***check*** under Article 9 ***of this Regulation;*** and
 - (d) ***adjustments*** under Article 10 of this Regulation ;
 - (e) ***the safety reserve under Article 11 of this Regulation.***
2. The Central Administrator shall conduct an automated check on each transaction under this Regulation and, where necessary, block transactions to ensure there are no irregularities.
3. ***The*** information ***referred to in points (a)-(e) of paragraph 1 and in paragraph 2*** shall be accessible to the public.

Article 13

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 7(2) and 12 shall be conferred on the Commission for *a* period of **five years** from ... *[date of entry into force of this Regulation]*. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

3. The delegation of powers referred to in Article 7(2) and 12 may be revoked at any time by the European Parliament or by the Council. A decision *to revoke* shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement *of 13 April 2016* on Better Law-Making .

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 7(2) and 12 shall enter into force only if no objection has been expressed either by the European Parliament or *by* the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or *of* the Council.

Article 14

Committee procedure

1. The Commission shall be assisted by the Climate Change Committee established by Regulation (EU) No 525/2013. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 15

Review

1. *The provisions of this Regulation shall be kept under review taking into account inter alia evolving national circumstances, the manner in which all sectors of the economy contribute to the reduction of greenhouse gas emissions, international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement.*
2. The Commission shall report to the European Parliament and to the Council *within six months following each global stocktake agreed under Article 14 of the Paris Agreement* on the operation of this Regulation, *including the balance between supply and demand for allocations*, its contribution to the *Union's* overall 2030 greenhouse gas emission reduction target and its contribution to the goals of the Paris Agreement, *in particular with regard to the need for additional Union policies and measures in view of necessary greenhouse gas reductions by the Union and its Member States, including a post-2030 framework*, and may make proposals if appropriate. *Those reports shall also take into account the strategies prepared pursuant to Article 4 of Regulation (EU) No 525/2013 with a view to contributing to the formulation of a long-term Union strategy.*

Article 16

Amendment to Regulation No. 525/2013/EU

Regulation (**EU**) No 525/2013 is hereby amended as follows:

(1) Article 7(1) is amended as follows:

(a) *the* following point is inserted:

"(aa) as of 2023, their anthropogenic emissions of greenhouse gases referred to in Article 2 of Regulation .../... **of the European Parliament and of the Council** [ESR] for the year X-2, in accordance with UNFCCC reporting requirements;"

(b) *the* second sub-paragraph is replaced by the following:

"Member States shall annually inform the Commission in their reports of their intentions to make use of the flexibilities in *Articles 5(4), 5(5) and 7, and of the use of revenues under* Article 5(6) of Regulation [ESR]. *Within three months of receiving that information from Member States, the Commission shall make the information available to the Committee referred to in Article 26*".

(2) In Article 13(1)(c), the following point is added:

"(viii) as from 2023, information on national policies and measures implemented towards meeting their obligations under Regulation [ESR] and information on planned additional national policies and measures envisaged with a view to limiting greenhouse gas emissions beyond their commitments under that Regulation."

(3) *In* Article 14(1), the following point is added:

"(f) as of 2023, total greenhouse gas projections and separate estimates for the projected greenhouse gas emissions for the emission sources covered by Directive 2003/87/EC and by Regulation [ESR] ."

(4) In Article 21(1) the *following* point is inserted:

"(c) obligations under Article 4 of Regulation [ESR] The evaluation shall take into account progress in Union policies and measures and information from Member States. Every two years, the evaluation shall also include the projected progress of the Union towards *implementing its Nationally Determined Contribution to the Paris Agreement containing the Union's commitment to economy-wide emission reductions* and of *the projected progress of* Member States towards fulfilling their obligations under *that* Regulation."

Article 17

Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX I

MEMBER STATE GREENHOUSE GAS EMISSION REDUCTIONS UNDER ARTICLE 4

	Member State greenhouse gas emission reductions in 2030 below their 2005 levels determined in accordance with Article 4(3)
Belgium	-35%
Bulgaria	-0%
Czech Republic	-14%
Denmark	-39%
Germany	-38%
Estonia	-13%
Ireland	-30%
Greece	-16%
Spain	-26%
France	-37%
Croatia	-7%
Italy	-33%
Cyprus	-24%
Latvia	-6%
Lithuania	-9%
Luxembourg	-40%
Hungary	-7%
Malta	-19%
Netherlands	-36%
Austria	-36%
Poland	-7%
Portugal	-17%
Romania	-2%
Slovenia	-15%
Slovakia	-12%
Finland	-39%
Sweden	-40%
United Kingdom	-37%

ANNEX II

MEMBER STATES THAT MAY HAVE A LIMITED CANCELLATION OF ETS ALLOWANCES TAKEN INTO ACCOUNT FOR COMPLIANCE PURSUANT TO ARTICLE 6

	Maximum percentage of 2005 emissions determined in accordance with Article 4(3) of this Regulation
Belgium	2%
Denmark	2%
Ireland	4%
Luxembourg	4%
Malta	2%
Netherlands	2%
Austria	2%
Finland	2%
Sweden	2%

ANNEX III

TOTAL NET REMOVALS FROM DEFORESTED LAND, AFFORESTED LAND, MANAGED CROPLAND AND MANAGED GRASSLAND THAT MEMBER STATES MAY TAKE INTO ACCOUNT FOR COMPLIANCE FOR THE PERIOD 2021 TO 2030 PURSUANT TO ARTICLE

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	Maximum amount expressed in million tonnes of CO ₂ equivalent
Belgium	3,8
Bulgaria	4,1
Czech Republic	2,6
Denmark	14,6
Germany	22,3
Estonia	0,9
Ireland	26,8
Greece	6,7
Spain	29,1
France	58,2
Croatia	0,9
Italy	11,5
Cyprus	0,6
Latvia	3,1
Lithuania	6,5
Luxembourg	0,25
Hungary	2,1
Malta	0,03
Netherlands	13,4
Austria	2,5
Poland	21,7
Portugal	5,2
Romania	13,2
Slovenia	1,3
Slovakia	1,2
Finland	4,5
Sweden	4,9
United Kingdom	17,8
Maximum total:	280

ANNEX IV

TOTAL ADJUSTMENT PURSUANT TO ARTICLE 10 *PARAGRAPH 2*

	Total adjustment pursuant to Article 10(2) expressed in tonnes of CO2 equivalent
Bulgaria	1602912
Czech Republic	4440079
Estonia	145944
Croatia	1148708
Latvia	1698061
Lithuania	2165895
Hungary	6705956
Malta	774000
Poland	7456340
Portugal	1655253
Romania	10932743
Slovenia	178809
Slovakia	2160210