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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/842 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

- Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 14 July 2021, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/842 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 (ESR)¹ as part of the “Fit for 55” package.
2. The main aim of the Commission proposal is to increase the contribution of the ESR to the EU’s overall climate ambition for 2030 by setting a new EU-level target for greenhouse gas emission reductions in the sectors covered by the ESR of 40% (from the current 29%), compared to 2005, and to update the Member States’ national targets accordingly.

¹ 10867/21 + ADD 1.

3. The draft Regulation is based on Article 192(1) of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).
4. The European Economic and Social Committee delivered its opinion on 8 December 2021². The Committee of the Regions delivered its opinion on 28 April 2022³.
5. On 28 June 2022, the Council (Environment) reached a general approach⁴ on the abovementioned proposal, which constituted the mandate for negotiations with the European Parliament in the context of the ordinary legislative procedure.
6. In the European Parliament, the Committee on Environment, Public Health and Food Safety (ENVI) has the lead responsibility. Jessica Polfjård (EPP/SE) was appointed as rapporteur. The Parliament adopted its negotiating mandate at the plenary session on 8 June 2022 and the proposal was referred to the ENVI Committee with a mandate for trilogue negotiations.
7. At the third trilogue, which was held on 8 November 2022, a provisional agreement was reached between co-legislators, resulting in the final compromise text as set out in annex II to this note.
8. The Commission has announced its intention to make a statement to the minutes of the Council at the time of the adoption of the act. The draft statement is set out in annex I to this note.

II. MAIN ELEMENTS OF FINAL COMPROMISE TEXT

9. On the key political issues, the compromise agreed provisionally with the Parliament consists of the following elements:

² EESC 2021/03947 (OJ C 152, p. 189).

³ ENVE-VII/025 (not yet published in the OJ).

⁴ 10790/22.

- a) **Trajectory (Art. 4, recitals 12, 13 and 14):** The compromise corresponds largely to the Commission proposal.
- For 2021-2022: as in the Commission’s initial proposal: annual emission allocations currently in force apply
 - For 2023-2025: the new trajectory starts in 2022, on the Member States’ annual emission allocation for 2022, ending in 2030 at the new target (as in the Commission’s initial proposal)
 - For 2026-2030: a new trajectory updated (either upwards or downwards) based on the Member States’ average greenhouse gas emissions during 2021, 2022 and 2023, and ending in 2030 at the new target (as in the Commission’s initial proposal). The new trajectory starts at nine-twelfths between 2023 and 2024 (as opposed to 2024 in the Commission’s proposal).
- b) **General flexibilities (Art. 5, recital 14a):** Some reductions to borrowing and banking limits compared to the Commission’s proposal, but transfer limits remain above the levels initially proposed by the Commission. The firewall proposed by the Parliament for transfers and banking between 2025 and 2026 was not retained.
- Borrowing:
- 2021-2025: 7,5 % next years’ AEAs (10 % in Commission proposal)
 - 2026-2029: 5 % next year’s AEAs (as in Commission proposal)
- Ex-ante transfers:
- 2021-25: 10 % each year’s AEAs (5 % in Commission proposal)
 - 2026-29: 15 % each year’s AEAs (10 % in Commission proposal)
- Banking:
- 2021: 75 % of the 2021 AEAs (no limit in Commission proposal)
 - 2022-29: 25 % of the AEAs up to the given year (30 % in Commission proposal).
- c) **Additional reserve (Art. 11a, recital 18):** not retained.

10. In addition, the following elements were provisionally agreed at the final trilogue:
- **Non-CO2 emissions: new recital 11a.**
 - **Biofuels: new recital 7a.**
 - **Access to justice: new recital 16b.** In addition, the Commission announced its intention to make a statement (see draft in annex I).
11. On the issue of the **compliance with LULUCF targets**, it was agreed that the issue should be solved in the negotiations on the LULUCF Regulation, and to come back to the issue in the ESR context only if no solution was found in that context.
12. The **provisional compromises agreed previously at technical level** were confirmed, notably on: Just Transition (Art. 4(5a), recital 3a), transparency of transfers and use of revenues generated by transfers (Art. 5), ETS flexibility (Art. 6, recital 15), corrective action (Art. 8), the European Scientific Advisory Board (Art. 16a, recital 16c), and the post-2030 framework/Review (Art. 15). Neither co-legislator had suggested amendments to the Commission proposal on the LULUCF flexibility (Art. 7, recital 16).
13. Where necessary, the remaining recitals have been adjusted to reflect the agreement on the operative part. In addition, some preliminary legal/linguistic suggestions have already been integrated into the current text.

III. CONCLUSION

14. Against this background, the Permanent Representatives Committee is invited to:
- (a) confirm agreement on the final compromise text as set out in the annex to this note with a view to reaching an agreement at first reading with the European Parliament;

- (b) authorise the Chair of the Permanent Representatives Committee to send a letter to inform the Chair of the European Parliament's Committee on the Environment, Public Health and Food Safety (ENVI) that, should the European Parliament adopt its position at first reading on the text of the proposal in the exact form as set out in the annex II to this note, and subject to revision of that text by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position.
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Draft statement by the Commission

In its report pursuant to Article 45 of Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, the Commission will also assess aspects related to access to justice in EU Member States, notably as regards Article 10 of that Regulation and take that assessment into account as appropriate in any possible subsequent legislative proposal.

2021/0200 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2018/842 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 Regulation (EU) 2018/1999

(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 Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

Whereas:

- (1) The Paris Agreement, adopted *on 12* December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC), entered into force *on 4* November 2016 ("the Paris Agreement"). Its Parties have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels.

That has been reinforced with the adoption of the Glasgow Climate Pact in November 2021, in which the Conference of the Parties recognises that the impacts of climate change will be much lower at the temperature increase of 1,5 °C, compared with 2 °C, and resolves to pursue efforts to limit the temperature increase to 1,5 °C.

- (1a) The need for action to reduce emissions is becoming increasingly urgent, as stated by the Intergovernmental Panel on Climate Change (IPCC) in its latest reports of 7 August 2021 entitled 'Climate change 2021: The Physical Science Basis', of 28 February 2022 entitled 'Climate Change 2022: Impacts, Adaptation and Vulnerability', and of 4 April 2022 entitled 'Climate Change 2022: Mitigation of Climate Change'. The Union should therefore address that urgency by stepping up its efforts.*

- (2) The Union has put in place a regulatory framework *for achieving* the 2030 greenhouse gas emission reduction target of at least 40% as endorsed by the European Council in 2014, before the entry into force of the Paris Agreement. *That framework* consists, inter alia, of Directive 2003/87/EC of the European Parliament and of the Council³ *establishing* a system for greenhouse gas emission allowance trading within the Union (*‘EU ETS’*), Regulation (EU) 2018/841 of the European Parliament and of the Council⁴*requiring* Member States to balance greenhouse gas emissions and removals from land use, land use change and forestry (*‘LULUCF’*), and Regulation (EU) 2018/842 of the European Parliament and of the Council⁵ *establishing* national targets for reduction of greenhouse gas emissions by 2030 ■ in the sectors *covered* neither ■ by Directive 2003/87/EC ■ nor by *Regulation (EU) 2018/841 (‘ESR’)*.

³ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275 of 25.10.2003, p. 32).

⁴ Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (OJ L 156, 19.6.2018, p. 1).

⁵ Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 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 (OJ L 156, 19.6.2018, p. 26).

(3) *The Commission’s Communication of 11 December 2019 entitled ‘The European Green Deal’ provides a starting point for the achievement of the Union’s climate-neutrality objective at the latest by 2050 and the aim to achieve negative emissions thereafter as laid down in Article 2(1) of Regulation (EU) 2021/1119 of the European Parliament and of the Council⁶ (‘European Climate Law’). It combines a comprehensive set of mutually reinforcing measures and initiatives aimed at achieving climate neutrality in the Union by 2050 and sets out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where economic growth is decoupled from resource use. It also aims to protect, conserve and enhance the Union's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. At the same time, *that transition has gender equality aspects as well as* a particular impact on some disadvantaged *and vulnerable* groups, such as older people, persons with disabilities and persons with a minority racial or ethnic background. It must therefore be ensured that the transition is just and inclusive, leaving no one behind.*

(3a) *On 16 June 2022, the Council adopted a Recommendation on ensuring a fair transition towards climate neutrality⁷, where it highlighted the need for accompanying measures and for paying particular attention to supporting those regions, industries, micro, small and medium-sized enterprises, workers, households and consumers that will face the greatest challenges. That recommendation encourages Member States to consider a set of measures in the areas of employment and labour market transitions, job creation and entrepreneurship, health and safety at work, public procurement, taxation and social protection systems, essential services and housing, as well as education and training also with a view to strengthening gender equality.*

⁶ *Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’) (OJ L 243, 9.7.2021, p. 1).*

⁷ *Council Recommendation of 16 June 2022 on ensuring a fair transition towards climate neutrality (OJ C 243, 27.6.2022, p. 35).*

- (4) In Regulation (EU) 2021/1119, *the Union has enshrined in legislation a binding objective of economy-wide climate neutrality by 2050, thus reducing emissions to net zero by that date, and an aim to achieve negative emissions thereafter*. That Regulation also establishes a binding Union domestic reduction *target* of net greenhouse gas emissions (emissions after deduction of removals) of at least 55% below 1990 levels by 2030. *Furthermore, it establishes that the contribution of net removals to the Union 2030 climate target shall be limited to 225 million tonnes of CO₂ equivalent*.
- (5) In order to implement those commitments as well as the Union's contributions under the Paris Agreement⁸ adopted under the UNFCCC, the Union regulatory framework *for achieving the 2030* greenhouse gas emission reduction target should be adapted.
- (6) Regulation (EU) 2018/842 lays down obligations on Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the Union's current target of reducing its greenhouse gas emissions by 30 % below 2005 levels in 2030 in the sectors covered by Article 2 of that Regulation. It also lays down rules on determining annual emission allocations and for the evaluation of Member States' progress towards meeting their minimum contributions.

⁸ Paris Agreement (OJ L 282, 19.10.2016, p. 4).

(7) *[While the Commission proposed that emissions trading would also apply to greenhouse gas emissions from road and maritime transport as well as from buildings,] the scope of Regulation (EU) 2018/842 should be maintained. Regulation (EU) 2018/842 should therefore continue to apply to the greenhouse gas emissions from domestic navigation, but not to those from international navigation. Greenhouse gas emissions of a Member State within the scope of Regulation (EU) 2018/842 to be taken into account for compliance checks will continue to be determined upon completion of inventory reviews in accordance with Regulation (EU) 2018/1999 of the European Parliament and the Council⁹.*

(7a) In line with the 2006 IPCC guidelines for national greenhouse gas inventories, CO₂ emissions from biomass for energy are reported under land use, land use change and forestry inventory categories under Regulation (EU) 2018/841. To avoid double counting, emissions from biofuels, bioliquids, and biomass fuels are zero-rated for the purpose of determining the emissions under Regulation (EU) 2018/842. To take into account the effects of indirect land use change and to promote the sustainability of such fuels, it is important that all Member States fully implement Directive (EU) 2018/2001 of the European Parliament and of the Council¹⁰ and its sustainability and greenhouse gas emission savings criteria.

⁹ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

¹⁰ *Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).*

- (8) *In some sectors greenhouse gas emissions have either increased or remained stable.* In its Communication of 17 September 2020 *entitled ‘Stepping up Europe’s 2030 climate ambition - Investing in a climate-neutral future for the benefit of our people’*, the Commission indicated that the increased 2030 overall *greenhouse gas emission reduction* target can only be achieved with the contribution of all sectors.
- (9) In its conclusions of 11 December 2020 the European Council mentioned that the 2030 target will be delivered collectively by the Union in the most cost-effective manner possible, that all Member States will participate in *that* effort, taking into account considerations of fairness and solidarity, while leaving no one behind, and that the new 2030 target needs to be achieved in a way that preserves the Union’s competitiveness and takes account of Member States’ different starting points and specific national circumstances and emission reduction potential, including those of island Member States and islands, as well as efforts made.
- (10) In order to achieve the target of reducing greenhouse gas emissions by *at least 55 %*, the sectors covered by Regulation (EU) 2018/842 will need to reduce their *greenhouse gas* emissions progressively until they reach *-40 %* in 2030, compared to 2005 levels. *Regulation (EU) 2018/842 also contributes to achieving the objectives of the Paris Agreement, as well as the Union’s objective of climate neutrality at the latest by 2050 under the European Climate Law, the achievement of which requires convergence of all Member States’ efforts over time, while taking into account specific national circumstances.*
- (11) For that purpose, the greenhouse gas emission reduction target for 2030 needs to be revised for each Member State. The revision of the *2030 national* greenhouse gas emission reduction *targets* should use the same methodology *as the one* that was *used* when Regulation (EU) 2018/842 was **■** adopted, where the national contributions were determined in consideration of the different capacities and cost-efficiency opportunities in Member States so *as* to ensure a fair and balanced distribution of the effort. The *greenhouse gas emission reduction target* for each Member State in 2030 should thus be determined in relation to the level of its 2005 reviewed greenhouse gas emissions covered by this Regulation, excluding verified greenhouse gas emissions from installations that operated in 2005 and which were only included in the *EU ETS* after 2005.

- (12) As a consequence, it will be necessary to set, as from the year of adoption of this Regulation, new binding national limits, expressed in annual emission allocations, progressively leading to the 2030 **greenhouse gas emission reduction** target of each Member State, while keeping in force the annual limits established for the years preceding **its adoption** as set in Commission Implementing Decision (EU) 2020/2126¹¹.
- (13) The COVID-19 pandemic **and Russia's war of aggression against Ukraine are impacting** the Union's economy and its level of **greenhouse gas** emissions to a degree that cannot yet be fully quantified. On the other hand, the Union is deploying its largest stimulus package ever **and accelerating the transition out of fossil fuels, which also have** a potential impact on the level of emissions. Due to those uncertainties, it is appropriate to review the emissions data in 2025 and, if necessary, readjust the annual emission allocations.
- (14) **In order to take into account the uncertainties related to the COVID-19 pandemic, Russia's war of aggression against Ukraine as well as other unforeseen events having an impact on emissions**, it is appropriate to update in 2025 the annual emission allocations for the years 2026 to 2030. **That update** should be based on a comprehensive review of the national inventory data carried out by the Commission in order to determine the average of the greenhouse gas emissions of each Member State during the years 2021, 2022 and 2023.
- (14a) In accordance with the European Climate Law, priority should be given to reductions in direct emissions, which will have to be complemented by increased CO₂ removals in order to achieve climate neutrality. The European Climate Law recognises that carbon sinks include natural and technological solutions. It is important that a Union scheme for the certification of safely and permanently stored carbon removals obtained through technological solutions is put in place, offering clarity for Member States and market operators to enhance such removals. When such a certification scheme is in force, an analysis can be made about the accounting of such removals under Union law.**

¹¹ Commission Implementing Decision (EU) 2020/2126 of 16 December 2020 on setting out the annual emission allocations of the Member States for the period from 2021 to 2030 pursuant to Regulation (EU) 2018/842 of the European Parliament and of the Council (OJ L 426, 17.12.2018, p. 58).

(14b) In order to incentivise earlier action and to further ensure environmental integrity, it is necessary and appropriate to lower the ceilings for borrowing and banking of annual emission allocations for the whole period 2021 to 2030. On the other hand, Member States should be able to progressively reduce their greenhouse gas emissions and reach their increased national targets for 2030 in a cost-effective manner. In view of the new and more stringent annual emission allocations required by this Regulation, it is appropriate to increase the existing ceilings on transfers of annual emission allocations between Member States. The possibility of transferring annual emission allocations promotes cooperation between Member States, allowing them to achieve their targets cost-effectively, while preserving environmental integrity. The transparency of such transfers should be ensured, so that they are carried out in a manner that is mutually convenient, including by means of auctioning, by the use of market intermediaries acting on an agency basis, by way of bilateral arrangements, or by the use of an electronic interface aiming to facilitate the exchange of information on intended transfers and to reduce transaction costs. Member States are already required to report the summary information on concluded transfers pursuant to Commission Implementing Regulation (EU) 2020/1208¹². After compilation by the Commission, a summary of the information provided is made available within three months from receiving the reports by Member States, in electronic form, providing the range of prices paid per annual emission allocations transaction. In addition, within the two periods between the publication of the implementing acts referred to in Article 38(4) of Regulation (EU) 2018/1999 and the start of the compliance check procedure, the Member States may report to the Commission on the 15th of each month on concluded transfers. Moreover, in order to facilitate the exchange of information on intended transfers, Member States are invited to continuously update the relevant information. A summary of the information received is compiled by the Commission and made available in a timely manner and in electronic form. Moreover, in order to improve transparency, before any effective transfer, Member States should inform the Climate Change Committee of their intention to proceed to a transfer of part of their annual emission allocation for a given year. In order to increase transparency further, it is appropriate to amend Regulation (EU) 2018/1999.

¹² *Commission Implementing Regulation of 7 August 2020 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999 of the European Parliament and of the Council and repealing Commission Implementing Regulation (EU) No 749/2014 (OJ L 278, 26.08.2020, p. 1.*

- (15) Under Regulation (EU) 2018/842, the cancellation of a limited quantity of emission allowances in the *EU ETS* may be taken into account for some Member States' compliance under Regulation (EU) 2018/842. ***Two eligible Member States have not made use of that flexibility, while one eligible Member State has not made full use of that flexibility. In view of the increased ambition level set by this Regulation, those Member States should be granted a new opportunity to make use, or further use, of that flexibility. It is therefore appropriate to set a new deadline for those Member States to notify the Commission of an intention to make use, or further use, of that flexibility. In addition,*** given the particular structure of Malta's economy, the national ***greenhouse gas emission*** reduction target of that Member State based on Gross Domestic Product per capita is significantly above its cost-effective reduction potential. ***It*** is therefore appropriate to increase Malta's access to that flexibility, without compromising the 2030 ***Union greenhouse gas emission reduction target***.
- (16) In addition to that flexibility, a limited quantity of net removals and net emissions from **■** LULUCF **■** may be taken into account for Member States' compliance under Regulation (EU) 2018/842 ('the LULUCF flexibility'). In order to ensure that sufficient mitigation efforts are deployed until 2030, it is appropriate to limit the use of the LULUCF flexibility by separating the use of ***that*** flexibility into two separate time periods, each capped by a limit corresponding to half of the maximum amount of total net removals set out in Annex III to Regulation (EU) 2018/842. It is also appropriate to bring the title of Annex III ***into*** line with **■** Regulation (EU) 2018/841 ***further to its amendment*** by Commission Delegated Regulation (EU) 2021/268 **■**¹³. As a consequence, there is no longer a need for Regulation (EU) 2018/842 to provide for a legal basis allowing the Commission to adopt delegated acts to amend the title of its Annex III. Article 7(2) of Regulation (EU) 2018/842 should therefore be deleted.

¹³ Commission Delegated Regulation (EU) 2021/268 of 28 October 2020 amending Annex IV to Regulation (EU) 2018/841 of the European Parliament and of the Council as regards the forest reference levels to be applied by the Member States for the period 2021-2025 (OJ L 60, 22.2.2021, p. 21).

- (16a) In order to allow swift and effective action where the Commission finds that a Member State is not making sufficient progress towards meeting its annual emissions levels, the corrective action mechanisms should be strengthened. Therefore, it is appropriate to revise the requirements applying to corrective action plans to be submitted by Member States in case of failure to make sufficient progress.*
- (16b) The Union and the Member States are parties to the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ('the Aarhus Convention'). Public scrutiny and access to justice are an essential part of the democratic values of the Union and a tool to safeguard the rule of law.*
- (16c) The Union's climate action should make use of the latest science. The advice of the European Scientific Advisory Board on Climate Change, established under Article 10a of Regulation (EC) No 401/2009¹⁴, should therefore be considered in the context of Regulation (EU) 2018/842.*
- (17) Considering, the introduction of a strengthened compliance regime in Regulation (EU) 2018/841 as of 2026, it is appropriate to abolish the deduction of the greenhouse gas emissions generated by each Member State in the period from 2026 to 2030 in the land sector in excess of its removals. Article 9(2) should therefore be amended accordingly.
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- (18a) It is appropriate that the review of Regulation (EU) 2018/842 in 2024 takes account of the Union's targets under Regulation (EU) 2021/1119 and the Union's commitment to the objectives of the Paris Agreement and any relevant commitments resulting from the Conferences of the Parties to the United Nations Framework Convention on Climate Change. Moreover, the review should include a reduction pathway for greenhouse gas emissions that is compatible with the binding objective of climate neutrality in the Union by 2050.*

¹⁴ *Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (OJ L 126, 21.5.2009, p. 13).*

(18b) Non-CO₂ greenhouse gas emissions (such as methane, nitrous oxide and so-called F-gases) account for over 20 % of the Union's greenhouse gas emissions. Non-CO₂ greenhouse gas emissions are covered by Regulation (EU) 2018/842 and therefore will necessarily be part of the measures that Member States will put in place in order to comply with their increased 2030 emission reduction targets under that Regulation. By 30 June 2023, Member States will need to submit to the Commission a draft update of their integrated national energy and climate plans, and the Commission will issue guidance in that respect, including encouraging Member States to set out targets and policies to reduce methane emissions. Likewise, Member States will need to assess whether their strategic plans under the common agriculture policy should be revised to reflect the increased ambition set out by Regulation (EU) 2018/842. The Commission will include information on the results obtained by the combination of Union and national efforts in relation to non-CO₂ greenhouse gas emissions in the annual reports under Article 29(5) of Regulation (EU) 2018/1999. The Commission will also assess draft national plans and may issue recommendations to Member States that do not make sufficient progress. The Commission will, in the context of the review of Regulation (EU) 2018/841, assess the current trends and future projections of greenhouse gas emissions from agriculture, as well as regulatory options to ensure their consistency with the objective of achieving long-term greenhouse gas emission reductions in all sectors of the economy in accordance with the Union's climate-neutrality objective and the Union's intermediary climate targets set out in Regulation (EU) 2021/1119. When reviewing Regulation (EU) 2018/842, the Commission will assess how all sectors covered by that Regulation contribute to the reduction of greenhouse gas emissions, including in particular the reduction achieved as regards non-CO₂ greenhouse gas emissions, also in sectors other than agriculture.

(18c) Since the objectives of this Regulation, in particular to adjust, in light of the European Climate Law, the obligations on 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 and to contribute to achieving the objectives of the Paris Agreement, 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 on 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.

(19) Regulation (EU) 2018/842 *and Regulation 2018/1999* should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2018/842 is amended as follows:

(1) ■ Article 1 ■ is replaced by *the following*:

"Article 1

Subject matter

This Regulation lays down obligations on Member States with respect to their minimum contributions for the period from 2021 to 2030 towards fulfilling the Union's target of reducing its greenhouse gas emissions by 40 % below 2005 levels in 2030 in the sectors covered by Article 2 of this Regulation. It contributes to the long-term target of climate neutrality in the Union at the latest by 2050, with the aim to achieve negative emissions thereafter. It thereby contributes to achieving the objectives of Regulation (EU) 2021/1119 and 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."

(2) In Article 2, paragraph 1 is replaced by the following:

"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) 2018/1999 of the European Parliament and the Council*, excluding greenhouse gas emissions from the activities listed in Annex I to Directive 2003/87/EC, other than the activity "maritime transport".

* Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1). "

(3) ■ Article 4 *is amended as follows*:

"(a) *paragraphs 1, 2, 3 and 4 are replaced by the following*:

1. *Each Member State shall, in 2030, limit its greenhouse gas emissions at least by the percentage set for that Member State in column 2 of Annex I in relation to its greenhouse gas emissions in 2005, determined pursuant to paragraph 3 of this Article.*
2. Subject to the flexibilities provided for in Articles 5, 6 and 7 of this Regulation and 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:

- (a) do not exceed, in the years 2021 and 2022, the limit defined by a linear trajectory, starting on the average of its greenhouse gas emissions *in* 2016, 2017 and 2018, as set out pursuant to paragraph 3 of this Article, and ending in 2030 at the limit set for that Member State in column 1 of Annex I to this Regulation. The linear trajectory of a Member State shall start either at five-twelfths of the distance from 2019 to 2020 or in 2020, whichever results in a lower **annual emission** allocation for that Member State;
- (b) do not exceed, in the years 2023, 2024 and 2025, the limit defined by a linear trajectory starting in 2022 at the annual emission allocation for that Member State, as set out pursuant to paragraph 3 of this Article for that year, and ending in 2030 at the limit set for that Member State in column 2 of Annex I to this Regulation;
- (c) do not exceed, in the years 2026 to 2030, the limit defined by a linear trajectory starting *on* the average of its greenhouse gas emissions during the years 2021, 2022 and 2023, as submitted by the Member State pursuant to Article 26 of Regulation (EU) 2018/1999, and ending in 2030 at the limit set for that Member State in column 2 of Annex I to this Regulation. ***The linear trajectory of a Member State shall start at nine-twelfths of the distance from 2023 to 2024.***
3. The Commission shall adopt implementing acts setting out the annual emission allocations for each Member State for the years from 2021 to 2030 in tonnes of CO₂ equivalent in accordance with the linear trajectories set out in paragraph 2 ***of this Article.***

For the years 2021 and 2022, ***the Commission*** shall determine the annual emission allocations based on a comprehensive review of the most recent national inventory data for the years 2005, ***2016, 2017 and*** 2018 submitted by the Member States pursuant to Article 7 of Regulation (EU) No 525/2013 and indicate the value for the 2005 greenhouse gas emissions of each Member State used to determine those annual emission allocations.

For the years 2023, 2024 and 2025, it shall determine the annual emission allocations based on the value for the 2005 greenhouse gas emissions of each Member State indicated pursuant to the second subparagraph *of this paragraph and on* the reviewed values of the national inventory data for the years 2016, 2017 and 2018 referred to in the second subparagraph.

For the years 2026 to 2030, it shall determine the annual emission allocations based on the value for the 2005 greenhouse gas emissions of each Member State indicated pursuant to the second subparagraph *of this paragraph* and on a comprehensive review of the most recent national inventory data for the years 2021, 2022 and 2023 submitted by the Member States pursuant to Article 26 of Regulation (EU) 2018/1999.

4. *Those implementing acts shall also specify, based on the percentages notified by Member States under Article 6(3), (3a) and (3b), 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.'*

(b) *the following paragraph is inserted:*

- 5a. *When undertaking the actions to limit the greenhouse gas emissions under paragraphs 1 and 2, Member States shall consider the need to ensure a just and socially fair transition for all. The Commission may issue guidance to support Member States in that regard."*

(3a) *Article 5 is amended as follows:*

"(a) *paragraph 1 is replaced as follows:*

1. *In respect of the years 2021 to 2025, a Member State may borrow a quantity of up to 7,5 % from its annual emission allocation for the following year."*

(b) Paragraphs 3 and 4 are replaced as follows:

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:

(a) in respect of the year 2021, bank the excess part of its annual emission allocation up to a level of 75 % of its annual emission allocation for 2021 to subsequent years until 2030, and

(b) in respect of the years 2022 to 2029, bank the excess part of its annual emission allocation up to a level of 25 % of its annual emission allocations up to that year to subsequent years until 2030.

4. A Member State may transfer up to 10 % of its annual emission allocation for a given year to other Member States in respect of the years 2021 to 2025, and up to 15 % in respect of the years 2026 to 2030. The receiving Member State may use that quantity for compliance under Article 9 for the given year or for subsequent years until 2030.

(c) the following paragraph is inserted:

5a. Before any transfer of annual emission allocations pursuant to paragraphs 4 and 5, a Member State shall inform, in electronic form, the Climate Change Committee of its intention to transfer part of its annual emission allocation for any given year.

(d) paragraph 6 is replaced by the following:

6. Member States should use revenues, or their equivalent in financial value, generated by transfers of annual emission 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 and shall make that information public in an easily accessible form."

(4) **■** *Article 6 is amended as follows:*

‘(a) Paragraph 3 is replaced by the following:

3. *The 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.*

The Member States listed in Annex II may decide to revise the notified percentage once in 2024 and once in 2027. In such case, the Member State concerned shall notify the Commission thereof by 31 December 2024 or by 31 December 2027, respectively.

- (b) *the following paragraphs 3a and 3b are inserted:*

- 3a. Malta shall notify the Commission by 31 December 2023 if it intends to make use of the limited cancellation of EU ETS allowances referred to in paragraph 1, up to the percentage listed in Annex II for each of the years 2025 to 2030 for its compliance under Article 9.

- 3b. *Notwithstanding paragraph 3, the Member States listed in Annex II which have not notified the Commission by 31 December 2019 of an intention to make use, or full use, of the limited cancellation of EU ETS allowances referred to in paragraph 1 of this Article shall notify the Commission by 31 December 2023 if they intend to make use, or further use, of that limited cancellation of EU ETS allowances, up to the percentage listed in Annex II for each year of the period from 2025 to 2030 for each Member State concerned, for its compliance under Article 9.’;*

- (c) *Paragraphs 4 and 5 are replaced by the following:*

4. *At a Member State’s request, the Central Administrator designated pursuant to Article 20(1) of Directive 2003/87/EC (‘the Central Administrator’) shall take into account an amount up to the total quantity determined pursuant to Article 4(4) of this Regulation for that Member States’ compliance under Article 9 of this Regulation. One-tenth of the total 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. One-sixth of the total 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 2025 to 2030 for Member States that have notified the Commission pursuant to paragraphs 3a and 3b of this Article.*
5. *Where a Member State, in accordance with paragraph 3 of this Article, has notified the Commission of its decision to revise the previously notified percentage, a correspondingly lower or higher quantity of EU ETS allowances shall be cancelled for that Member State in respect of each year from 2026 to 2030 or from 2028 to 2030, respectively.’*

(5) Article 7 is amended as follows:

(a) the title is replaced by the following:

‘Additional use of net removals from LULUCF‘

(b) paragraph 1 is amended as follows:

(i) the introductory sentence is replaced by the following:

‘To the extent that a Member State’s greenhouse gas emissions exceed its annual emission allocations for a given year, including any annual emission allocations banked pursuant to Article 5(3) of this Regulation, a quantity up to the sum of total net removals and total net emissions from the combined land accounting categories included in the scope of Regulation (EU) 2018/841, may be taken into account for its compliance under Article 9 of this Regulation for that year, provided that:.’

- (ii) point (a) is replaced by the following:
 - ‘(a) the cumulative quantity taken into account for that Member State for the years 2021 to 2025 does not exceed half of the maximum amount of total net removals set out in Annex III to this Regulation for that Member State;
 - (aa) the cumulative quantity taken into account for that Member State for the years 2026 to 2030 does not exceed half of the maximum amount of total net removals set out in Annex III to this Regulation for that Member State;’
- (iii) paragraph 2 is deleted.

(5a) Article 8 is replaced by the following:

"Article 8

Corrective action

- 1. If the Commission finds, in its annual assessment under Article 29 of Regulation (EU) 2018/1999 of the European Parliament and of the Council and taking into account the intended use of the flexibilities referred to in Articles 5, 6 and 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) a detailed explanation of why it is not making sufficient progress towards meeting those obligations;***
 - (-ab) an assessment of how Union funding has supported its efforts towards meeting those obligations and of how it intends to use such funding to progress towards meeting them;***

- (a) additional actions, complementing the integrated national energy and climate plan of that Member State pursuant to Regulation (EU) 2018/1999 or reinforcing its implementation, that it is to implement in order to meet those obligations, through domestic policies and measures and the implementation of Union action, accompanied by a detailed assessment, underpinned by quantitative data where available, of the envisaged greenhouse gas emission reductions resulting from those actions;*
- (b) a strict timetable for implementing such actions, which enables the assessment of annual progress in implementation.*

Where a Member State has established a national climate advisory body, it may seek the advice to identify the necessary actions referred to in point (a).

- 2. In accordance with its annual work programme, the European Environment Agency shall assist the Commission in its work to assess any such corrective action plans.*
- 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 corrective action plan accordingly. If the Member State concerned does not address the opinion or a substantial part thereof, that Member State shall provide a justification to the Commission.*
- 3a. Each Member State shall make its corrective action plan referred to in paragraph 1 and any justification referred to in paragraph 3 publicly available. The Commission shall make its opinion referred to in paragraph 3 publicly available."*

(6) In Article 9, paragraph 2 is replaced by the following:

‘2. If the greenhouse gas emissions of a Member State in the period from 2021 to 2025 referred to in Article 4 of Regulation (EU) 2018/841 exceeded its removals, as determined in accordance with Article 12 of that Regulation, the Central Administrator shall deduct from that Member State’s annual emission allocations an amount equal to those excess greenhouse gas emissions in tonnes of *CO*₂ equivalent for the relevant years.’

█ █
"█"

(7b) Article 15 is replaced by the following:

"Article 15

Review

- 1. 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 and Regulation (EU) 2021/1119.***

2. *The Commission shall submit a report to the European Parliament and to the Council, within six months of 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 annual emission allocations, as well as on the suitability of the national targets contained in Annex I of this Regulation as regards their contribution to the Union's climate objectives pursuant to Regulation (EU) 2021/1119 and to the goals of the Paris Agreement. The report shall in particular assess the need for additional Union policies and measures in view of the necessary greenhouse gas emission reductions by the Union and its Member States in a post-2030 framework. It shall assess a reduction pathway for the greenhouse gas emissions covered by this Regulation that is compatible with the objective of climate neutrality at the latest by 2050 taking into account the projected indicative Union greenhouse gas budget referred to in Article 4(4) of Regulation (EU) 2021/1119 as well as the importance of promoting both fairness and solidarity among Member States and cost-effectiveness in achieving this objective. The report may be accompanied by legislative proposals if appropriate."*

Those reports shall take into account the long-term strategies of Member States prepared and submitted pursuant to Article 15(1) of Regulation (EU) No 2018/1999 and the assessment thereof made by the Commission pursuant to Article 15(9) of that Regulation.

(7e) *The following article is inserted:*

**"Article 16a
Scientific advice**

The European Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009 (the "Advisory Board") may, on its own initiative, provide scientific advice or issue reports on Union measures, climate targets, annual emissions levels and flexibilities under this Regulation. The Commission shall consider the relevant advice and reports of the Advisory Board, in particular as regards future measures aiming at further greenhouse gas emission reductions in the sectors covered by this Regulation."

(8) Annex I to Regulation (EU) 2018/842 is replaced by the text in the Annex to this Regulation;

(9) In Annex II, the entry for Malta is replaced by the following:

	Maximum percentage of 2005 greenhouse gas emissions determined in accordance with Article 4(3)
"Malta	7 %"

(10) ■ Annex III is *amended as follows*:

(a) The title of Annex III is replaced by the following:

‘TOTAL NET REMOVALS FROM THE CATEGORIES OF LAND COVERED BY REGULATION (EU) 2018/841 THAT MEMBER STATES MAY TAKE INTO ACCOUNT FOR COMPLIANCE FOR THE PERIOD 2021 TO 2030 PURSUANT TO **POINTS (a) and (aa)** OF ARTICLE 7(1) OF THIS REGULATION’;

- (b) *The entry for the United Kingdom is deleted;*
- (c) *In the last row of the table, "280" is replaced by "262,2".*

Article 1a

Amendments to Regulation (EU) 2018/1999

Regulation (EU) 2018/1999 is amended as follows:

- (a) *In Article 26, paragraph 3 is replaced by the following:*
 - 3. *From 2023, Member States shall determine and report to the Commission final greenhouse gas inventory data by 15 March each year (year X) and preliminary greenhouse gas inventory data by 15 January each year, including the greenhouse gases and the inventory information listed in Annex V. The report on the final greenhouse gas inventory data shall also include a complete and up-to-date national inventory report. Within three months of receiving the reports, the Commission shall make the information referred to in point (n) of the first paragraph of Part I of Annex V available in electronic form to the Climate Change Committee referred to in point (a) of Article 44(1).*

- (b) *In Annex V, Part 1, point (n) is replaced by the following:*
 - (n) *information on:*
 - i. *the Member State's intentions to make use of the flexibilities referred to in Article 5(4) and (5) of Regulation (EU) 2018/842, including, where possible, information regarding quantities, type of transfer and estimated range of prices;*
 - ii. *the use of revenues under Article 5(6) of Regulation (EU) 2018/842;*
 - iii. *the Member State's intentions to make use of the flexibility referred to in Article 7(1) of Regulation (EU) 2018/842.*

Article 2

This Regulation shall enter into force on the twentieth day following that of 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 ...,

For the European Parliament
The President

For the Council
The President

Annex

MEMBER STATE GREENHOUSE GAS EMISSION REDUCTIONS PURSUANT TO ARTICLE 4(1)

	Member State greenhouse gas emission reductions in 2030 in relation to their 2005 levels determined in accordance with Article 4(3)	
	Column 1	Column 2
Belgium	— 35 %	— 47 %
Bulgaria	— 0 %	— 10 %
<i>Czech Republic</i>	— 14 %	— 26 %
Denmark	— 39 %	— 50 %
Germany	— 38 %	— 50 %
Estonia	— 13 %	— 24 %
Ireland	— 30 %	— 42 %
Greece	— 16 %	— 22,7 %
Spain	— 26 %	— 37,7 %
France	— 37 %	— 47,5 %
Croatia	— 7 %	— 16,7 %
Italy	— 33 %	— 43,7 %
Cyprus	— 24 %	— 32 %

Latvia	— 6 %	— 17 %
Lithuania	— 9 %	— 21 %
Luxembourg	— 40 %	— 50 %
Hungary	— 7 %	— 18,7 %
Malta	— 19 %	— 19 %
Netherlands	— 36 %	— 48 %
Austria	— 36 %	— 48 %
Poland	— 7 %	— 17,7 %
Portugal	— 17 %	— 28,7 %
Romania	— 2 %	— 12,7 %
Slovenia	— 15 %	— 27 %
Slovakia	— 12 %	— 22,7 %
Finland	— 39 %	— 50 %
Sweden	— 40 %	— 50 %
