

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 (Text with EEA relevance)

REGULATION (EU) 2018/842 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 30 May 2018

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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 Commission,

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

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the ordinary legislative procedure⁽³⁾,

Whereas:

- (1) The European Council in its conclusions of 23-24 October 2014 on the 2030 climate and energy policy framework endorsed a binding target of at least a 40 % domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 and that target was reaffirmed in the European Council conclusions of 17-18 March 2016.
- (2) The European Council conclusions of 23-24 October 2014 stated that the emissions reduction target of at least 40 % should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the European Union emissions trading system ('EU ETS') laid down in Directive 2003/87/EC of the European Parliament and of the Council⁽⁴⁾ and non-ETS sectors amounting to 43 % and 30 %, respectively, by 2030 compared to 2005. All sectors of the economy should contribute to achieving these greenhouse gas 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⁽⁵⁾, should be continued until 2030 with efforts distributed on the basis of relative Gross Domestic Product (GDP) per capita. All Member States

should contribute to the overall Union 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 adjusted relatively to reflect cost-effectiveness in a fair and balanced manner. Achieving these greenhouse gas emission reductions should boost efficiency and innovation in the Union economy and should, in particular, promote improvements, notably in buildings, agriculture, waste management and transport, in so far as they fall under the scope of this Regulation.

- (3) This Regulation forms part of the implementation of the Union's contributions under the Paris Agreement⁽⁶⁾ adopted under the United Nations Framework Convention on Climate Change ('UNFCCC'). The Paris Agreement was concluded on behalf of the Union on 5 October 2016 by Council Decision (EU) 2016/1841⁽⁷⁾. The commitment of the Union to economy-wide greenhouse gas emission reductions was set out 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.
- (4) The Paris Agreement, inter alia, 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, and invites Parties to take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases, including forests.
- (5) In its conclusions of 29-30 October 2009, the European Council supported a Union objective, in the context of necessary reductions according to the Intergovernmental Panel on Climate Change (IPCC) by developed countries as a group, to reduce greenhouse gas emissions by 80-95 % by 2050 compared to 1990 levels.
- (6) The nationally determined contributions 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 that requires continuation of ambitious climate action with this Regulation and progress on the other aspects of the Energy Union as set out in the Commission

communication of 25 February 2015 entitled ‘A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy’.

- (8) A range of Union measures enhance Member States’ ability to meet their climate commitments and are crucial to achieving necessary greenhouse gas emission reductions in the sectors covered by this Regulation. Those measures include legislation on fluorinated greenhouse gases, CO₂-reductions from road vehicles, energy performance of buildings, renewables, energy efficiency and circular economy, as well as Union funding instruments for climate-related investments.
- (9) The conclusions of the European Council of 19-20 March 2015 noted that the Union 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.
- (10) 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 greenhouse gas 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 action on climate mitigation and adaptation as well as research funding for the development of and investments in sustainable and innovative practices and technologies.
- (11) The agricultural sector has direct and significant impact on biodiversity and ecosystems. For that 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.
- (12) 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 greenhouse gas emission reductions and energy efficiency in transport, for electric transportation, for a shift of transport modes, where more sustainable, and for sustainable renewable energy sources in transport also after 2020. The shift towards 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.

- (13) The impact of Union and national policies and measures implementing this Regulation should be assessed in line with the monitoring and reporting obligations under Regulation (EU) No 525/2013 of the European Parliament and of the Council⁽⁸⁾.
- (14) 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 Union 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.
- (15) This Regulation should cover greenhouse gas emissions from the IPCC categories of energy, industrial processes and product use, agriculture and waste as determined pursuant to Regulation (EU) No 525/2013 excluding greenhouse gas emissions from the activities listed in Annex I to Directive 2003/87/EC.
- (16) 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 or small and medium-sized enterprises (SMEs) burdens that are disproportionate to the objectives pursued. CO₂ emissions from flights that are 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.
- (17) The greenhouse gas emissions reduction 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 greenhouse gas emissions from installations that operated in 2005 and which were only included in the EU ETS after 2005. Annual emission allocations from 2021 to 2030 should be determined on the basis of data submitted by the Member States and reviewed by the Commission.
- (18) 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 should 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. To ensure appropriate contributions to the Union's greenhouse gas emission reduction target for the period from 2021 to 2030, the start date of the trajectory should be determined for

each Member State on the basis of which of those dates results in a lower allocation. An adjustment to the annual emission allocation in 2021 should be provided for Member States with both a positive limit under Decision No 406/2009/EC and increasing annual emission allocations between 2017 and 2020 determined pursuant to Commission Decision 2013/162/EU⁽⁹⁾ and Commission Implementing Decision 2013/634/EU⁽¹⁰⁾, to reflect the capacity for increased greenhouse gas emissions in those years.

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. That additional adjustment should only cover part of the greenhouse gas emission reductions needed in the period from 2021 to 2029 in order to maintain incentives for additional greenhouse gas emission reductions and in order to not impact the 2030 target achievement, taking into account the use of other adjustments and flexibilities set out in this Regulation.

- (19) In order to ensure uniform conditions for the implementation of the provisions of this Regulation concerning the setting out of the annual emission allocations for Member States, 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 Council⁽¹¹⁾.
- (20) 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 greenhouse gas 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 they ought to be 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, or by way of bilateral arrangements. Any such transfer could 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.
- (21) A one-off flexibility should be 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 EU ETS allowances for free to industrial installations in 2013. To preserve the aim of the Market Stability Reserve established by Decision (EU) 2015/1814 of the European Parliament and the Council⁽¹²⁾ to tackle structural supply-demand imbalances in the EU ETS, the EU ETS allowances taken into account for the one-off flexibility should be considered as EU ETS allowances in circulation when determining the total number of EU ETS allowances in circulation in a given year. In its

first review under that Decision, the Commission should consider whether to maintain such accounting as EU ETS allowances in circulation.

- (22) Regulation (EU) 2018/841 of the European Parliament and of the Council⁽¹³⁾ lays down accounting rules on greenhouse gas emissions and removals relating to land use, land-use change and forestry ('LULUCF'). Activities that fall under the scope of that Regulation should not be covered by this Regulation. However, 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 afforested land, deforested land, managed cropland, managed grassland and, under certain conditions, managed forest land as well as, where made mandatory under Regulation (EU) 2018/841, managed wetland, as defined in that Regulation, a LULUCF flexibility for a maximum quantity of 280 million tonnes of CO₂ equivalent of those removals divided among Member States should be included in this Regulation as an additional possibility for Member States to meet their commitments when needed. That total amount and its division among Member States should acknowledge the lower mitigation potential of the agriculture and land use sector and an appropriate contribution of that sector to greenhouse gas mitigation and sequestration. 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 (EU) 2018/841.
- (23) On 30 November 2016, the Commission presented a proposal for a Regulation of the European Parliament and of the Council on the Governance of the Energy Union ('governance proposal'), 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 the governance 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 Regulation (EU) 2018/841. To that end, Member States are to set out the policies and measures to meet the obligations under this Regulation and Regulation (EU) 2018/841, with an outlook to the long-term goal to achieve a balance between greenhouse gas emissions and removals in accordance with the Paris Agreement. Those plans are also to set out an assessment of the impacts of the planned policies and measures to meet the objectives. According to the governance proposal, the Commission should be able to 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 those plans.
- (24) 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 the Agency's annual work programme.

- (25) 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 greenhouse gas emissions from installations that were previously covered by Directive 2003/87/EC into their commitments under this Regulation, those Member States should implement additional policies and measures in the sectors covered by this Regulation in order to reduce those greenhouse gas emissions.
- (26) In recognition of previous efforts made since 2013 by 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 safety reserve should benefit Member States whose GDP per capita was below Union average in 2013, whose greenhouse gas emissions remain below their annual emission allocations from 2013 to 2020 and which have problems with achieving their 2030 greenhouse gas emission target despite using other flexibilities provided for in this Regulation. A safety reserve of that size would cover a significant part of the projected collective deficit of eligible Member States in the period from 2021 to 2030, without additional policies, while maintaining incentives for additional action. The safety 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.
- (27) In order to reflect developments in the framework of Regulation (EU) 2018/841 as well as to ensure the accurate accounting under this Regulation, 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 allowing the use of the land accounting categories of managed forest land and managed wetland under the LULUCF flexibility and in respect of the accounting of transactions under this Regulation, including the use of flexibilities, the application of compliance checks and the accurate functioning of the safety reserve, through the registry established pursuant to Article 10 of Regulation (EU) No 525/2013 ('Union Registry'). Information regarding accounting under this Regulation should be accessible to the public. The necessary provisions for accounting of transactions should be contained in a single instrument combining the accounting provisions pursuant to Regulation (EU) No 525/2013, Regulation (EU) 2018/841, this Regulation and Directive 2003/87/EC. 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⁽¹⁴⁾. 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.

- (28) This Regulation should be reviewed as of 2024 and every five years thereafter in order to assess its overall functioning, in particular with regard to the need for increased stringency of Union policies and measures. The review should take into account, inter alia, evolving national circumstances and be informed by the results of the 2018 Facilitative Dialogue under the UNFCCC ('Talanoa dialogue') and the global stocktake under the Paris Agreement. As part of the review, the balance between supply and demand for annual emission 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, by 31 October 2019, assess the outcome of the Talanoa dialogue. 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.
- (29) 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 emission 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 greenhouse gas 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 afforested land, deforested land, managed cropland and managed grassland taking place pursuant to Regulation (EU) 2018/841 can be considered. That 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.
- (30) Regulation (EU) No 525/2013 should be amended accordingly.
- (31) Since the objectives of this Regulation, in particular to lay down 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.
- (32) This Regulation is without prejudice to more stringent national objectives,

HAVE ADOPTED THIS REGULATION:

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 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 of this Regulation 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 greenhouse gas emissions from the activities listed in Annex I to Directive 2003/87/EC.

2 Without prejudice to Article 7 and Article 9(2) of this Regulation, this Regulation does not apply to greenhouse gas emissions and removals covered by Regulation (EU) 2018/841.

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, the following definitions apply:

- (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 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, 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 either 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 of this Article. 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 implementing acts shall indicate the value for the 2005 greenhouse gas emissions of each Member State used to determine the annual emission allocations specified in paragraphs 1 and 2.

4 Those implementing acts shall also specify, based on the percentages notified by Member States under Article 6(3), 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

Flexibilities by means of borrowing, banking and transfer

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:

- a in respect of the year 2021, bank that excess part of its annual emission allocation 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 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 that 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. The receiving Member State may use that 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 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.

7 Any transfer of annual emission allocations pursuant to paragraphs 4 and 5 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, provided that double counting is avoided and traceability is ensured.

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, provided that double counting is avoided.

Article 6

Flexibility for certain Member States following reduction of EU ETS allowances

1 The Member States listed in Annex II to this Regulation 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. Such cancellation shall be made from the auctioning volumes of the Member State concerned pursuant to Article 10 of Directive 2003/87/EC.

2 The EU ETS allowances taken into account under paragraph 1 of this Article shall be considered as EU ETS allowances in circulation for the purposes of Article 1(4) of Decision (EU) 2015/1814.

In its first review pursuant to Article 3 of that Decision, the Commission shall consider whether to maintain the accounting set out in the first subparagraph of this paragraph.

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 downwards 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.

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.

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 downwards, a correspondingly lower 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.

Article 7

Additional use of up to 280 million net removals from LULUCF

1 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 of afforested land, deforested land, managed cropland, managed grassland and, subject to the delegated acts adopted pursuant to paragraph 2 of this Article, managed forest land and managed wetland, as referred to in points (a) and (b) of Article 2(1) of Regulation (EU) 2018/841, 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 the years of the period from 2021 to 2030 does not exceed the maximum amount of total net removals set out in Annex III to this Regulation for that Member State;
- b such quantity is in excess of that Member State's requirements under Article 4 of Regulation (EU) 2018/841;
- c the Member State has not acquired more net removals under Regulation (EU) 2018/841 from other Member States than it has transferred;
- d the Member State has complied with Regulation (EU) 2018/841; and
- e the Member State has submitted a description of the intended use of the flexibility available under this paragraph pursuant to the second subparagraph of Article 7(1) of Regulation (EU) No 525/2013.

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

- a reflect the contribution of the land accounting category managed forest land while respecting the maximum amount of total net removals for each Member State referred to in Annex III to this Regulation, when delegated acts laying down forest reference levels are adopted pursuant to Article 8(8) or (9) of Regulation (EU) 2018/841; and
- b reflect the contribution of the land accounting category managed wetland while respecting the maximum amount of total net removals for each Member State referred to in Annex III to this Regulation, when all Member States are required to account for this category under Regulation (EU) 2018/841.

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 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 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 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.

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, taking into account paragraph 2 of this Article and the flexibilities used pursuant to Articles 5, 6 and 7, the following measures shall apply:

- a an addition to the Member State's greenhouse gas 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.

The Central Administrator shall implement the prohibition referred to in point (b) of the first subparagraph in the Union Registry.

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 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 CO₂ equivalent for the relevant years.

Article 10

Adjustments

- 1 The Commission shall adjust the annual emission allocations for each Member State under Article 4 of this Regulation in order 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 greenhouse gas 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 shall be added to the annual emission 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 of CO₂ equivalent shall be established in the Union Registry, subject to the fulfilment of the Union target referred to in Article 1. The safety reserve shall be available in addition to the flexibilities provided for in Articles 5, 6 and 7.
- 2 A Member State may benefit from the safety reserve 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 greenhouse gas emissions for the years from 2013 to 2020 in the sectors covered by this Regulation are below its cumulative annual emission allocations for the years from 2013 to 2020; and
 - c its greenhouse gas emissions exceed its annual emission allocations in the period from 2026 to 2030, although it has:
 - (i) exhausted the flexibilities pursuant to Article 5(2) and (3);
 - (ii) 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; and
 - (iii) made no net transfers to other Member States under Article 5.
- 3 A Member State, which meets the conditions set out in paragraph 2 of this Article, shall receive an additional quantity from the safety 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 to be received by all of the Member States which fulfil the conditions set out in paragraph 2 of this Article exceeds the limit referred to in paragraph 1 of this Article, the quantity to be received by each of those Member States shall be reduced on a pro rata basis.

4 Any amount remaining in the safety reserve after the distribution in accordance with the first subparagraph of paragraph 3 shall be distributed among the Member States referred to in that subparagraph proportionally to their remaining shortfall, but not exceeding it. For each of those Member States, that quantity may be additional to the percentage referred to in that subparagraph.

5 After the completion of the review referred to in Article 19 of Regulation (EU) No 525/2013 for the year 2020, the Commission shall, for each Member State that fulfils the conditions in points (a) and (b) of paragraph 2 of this Article, publish the amounts corresponding to 20 % of the overall overachievement in the period from 2013 to 2020 as referred to in the first subparagraph of paragraph 3 of this Article.

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 in respect of:

- a annual emission allocations;
- b flexibilities exercised under Articles 5, 6 and 7;
- c compliance checks under Article 9;
- d adjustments under Article 10; and
- e the safety reserve under Article 11.

2 The Central Administrator shall conduct an automated check on each transaction in the Union Registry that results from this Regulation and shall, where necessary, block transactions to ensure that there are no irregularities.

3 The information referred to in points (a) to (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 Articles 7(2) and 12(1) shall be conferred on the Commission for a period of five years from 9 July 2018. 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 Articles 7(2) and 12(1) 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 Articles 7(2) and 12(1) 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 to 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 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 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 contribution of this Regulation 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 the necessary greenhouse gas emission reductions by the Union and its Member States, including a post-2030 framework, and may make proposals if appropriate.

Those reports shall 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

Amendments to Regulation (EU) No 525/2013

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

- (1) in Article 7, paragraph 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 (EU) 2018/842 of the European Parliament and of the Council⁽¹⁵⁾ for the year X-2, in accordance with UNFCCC reporting requirements;;
 - (b) the second subparagraph is replaced by the following:

In their reports, Member States shall annually inform the Commission of any intention to use the flexibilities set out in Article 5(4) and (5) and Article 7 of Regulation (EU) 2018/842, as well as of the use of revenues in accordance with Article 5(6) of that Regulation. Within three months of receiving such information from Member States, the Commission shall make the information available to the committee referred to in Article 26 of this Regulation.;
- (2) in point (c) of Article 13(1), the following point is added:
 - (ix) as of 2023, information on national policies and measures implemented towards meeting their obligations under Regulation (EU) 2018/842 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 Regulation (EU) 2018/842 and by Directive 2003/87/EC.;
- (4) in Article 21(1), the following point is added:
 - (c) obligations under Article 4 of Regulation (EU) 2018/842. 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 greenhouse gas emission reductions and 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 Strasbourg, 30 May 2018.

For the European Parliament

The President

A. TAJANI

For the Council

The President

L. PAVLOVA

Status: This is the original version (as it was originally adopted).

ANNEX I

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)
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 %

Status: This is the original version (as it was originally adopted).

ANNEX II

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

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

ANNEX III

TOTAL NET REMOVALS FROM AFFORESTED LAND, DEFORESTED
LAND, MANAGED CROPLAND AND MANAGED GRASSLAND THAT
MEMBER STATES MAY TAKE INTO ACCOUNT FOR COMPLIANCE FOR
THE PERIOD 2021 TO 2030 PURSUANT TO POINT (A) OF ARTICLE 7(1)

	Maximum amount expressed in million tonnes of CO₂ 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

Status: This is the original version (as it was originally adopted).

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

AMOUNT OF ADJUSTMENT PURSUANT TO ARTICLE 10(2)

	Tonnes of CO₂ equivalent
Bulgaria	1 602 912
Czech Republic	4 440 079
Estonia	145 944
Croatia	1 148 708
Latvia	1 698 061
Lithuania	2 165 895
Hungary	6 705 956
Malta	774 000
Poland	7 456 340
Portugal	1 655 253
Romania	10 932 743

Status: This is the original version (as it was originally adopted).

Slovenia	178 809
Slovakia	2 160 210

- (1) [OJ C 75, 10.3.2017, p. 103.](#)
- (2) [OJ C 272, 17.8.2017, p. 36.](#)
- (3) Position of the European Parliament of 17 April 2018 (not yet published in the Official Journal) and decision of the Council of 14 May 2018.
- (4) 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](#)).
- (5) 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](#)).
- (6) Paris Agreement ([OJ L 282, 19.10.2016, p. 4](#)).
- (7) 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](#)).
- (8) 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](#)).
- (9) 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](#)).
- (10) 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](#)).
- (11) 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](#)).
- (12) 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 L 264, 9.10.2015, p. 1](#)).
- (13) 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 (see page 1 of this Official Journal).
- (14) [OJ L 123, 12.5.2016, p. 1.](#)
- (15) 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](#)).';