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| From: | Presidency |
| To: | Council |
| No. Cion doc.: | 10867/21 + ADD 1 - COM (2021) 555 final |
| Subject: | Fit for 55 package 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 – General approach |

I. INTRODUCTION

1. On 14 July 2021, the Commission submitted to the European Parliament and the Council 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.

¹ 10867/21 + ADD 1.

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.
3. The European Parliament has appointed Ms Jessica Polfjård (EPP, SE) as Rapporteur for the Committee on the Environment, Public Health and Food Safety (ENVI). The ENVI Committee adopted its report on the proposal on 16 May 2022. The Parliament adopted its position on the proposal on 8 June 2022.
4. The European Economic and Social Committee delivered its opinion on 8 December 2021. The Committee of the Regions delivered its opinion at its session on 27-29 April 2022.
5. The Council (Environment) held a policy debate on the five proposals in its areas of competence, including the ESR, during its meetings on 20 December 2021² and 17 March 2022³.
6. On 13 May 2022, the Permanent Representatives Committee (Coreper) discussed the Commission proposal on the basis of a Presidency note⁴ in order to provide guidance for further work.
7. At working party level, the French Presidency continued the examination of the proposal at seven meetings of the Working Party on the Environment, most recently on 3 June 2022.
8. Coreper examined the latest Presidency compromise text⁵ on 15 June 2022 in preparation for the Council (Environment) discussion on this file at its meeting on 28 June 2022.

² 14585/21.

³ 6668/2/22 REV 2.

⁴ 8745/22.

⁵ 9892/22.

9. During the discussion in Coreper, a broad majority of delegations expressed support for the compromise text. The Presidency concluded that the text would be forwarded as it stood to the Council with a view to its meeting on 28 June 2022. The Presidency's compromise text is included in the Annex to this note. It corresponds to the text presented during the discussion in Coreper on 15 June.

II. MAIN ELEMENTS OF THE PRESIDENCY COMPROMISE

10. The Presidency compromise text retains the essential elements of the Commission proposal in terms of scope, targets, both at EU and Member State level, flexibilities and additional reserve. However, taking into account the concerns expressed by delegations, the Presidency made a number of changes, in particular with regard to the following issues:
- Objectives of the Regulation: the introduction of a reference to the convergence of efforts of all Member States over time, while taking into account specific national circumstances (recital 10), as well as a reference to achieving the Union's climate neutrality goal by 2050 (Articles 1 and 15).
 - The linear trajectory (Article 4(2) and (3) and recital 14): the adjustment in 2025 of the 2026-2030 emission trajectory, if it leads to higher annual limits for the Member State concerned, in order to take into account the uncertainties related to the COVID-19 pandemic and to other unforeseen events having an impact on emissions.
 - Flexibilities within the ESR (Article 5(4), 5(5a) and recital 14a of the ESR and Article 26(3) and Annex V of Regulation (EU) 2018/1999): increasing the volume of allocations that can be exchanged between Member States, as well as increasing the transparency of these exchanges.

- ETS flexibility: (Article 6, recital 15): relaxing the conditions for use of ETS flexibility for the Member States listed in Annex II.
- The additional reserve (Article 11a): relaxing the conditions for use of the reserve.

III. STATE OF PLAY

11. During the discussion in Coreper on 15 June 2022, a broad majority of delegations expressed support for the latest Presidency compromise text. Some delegations raised objections on specific points in the text.

On the basis of the discussions held so far, the Presidency considers that its latest compromise text reflects the balance between the positions of the delegations, and therefore provides a good basis for further work in the context of negotiations with the European Parliament.

IV. CONCLUSIONS

12. In light of the above, the Council (Environment) is invited to approve the text set out in the Annex to this note with a view to agreeing on a general approach, which will constitute the basis for future negotiations with the European Parliament on the Commission proposal in the context of the ordinary legislative procedure.

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 Committee⁶,

Having regard to the opinion of the Committee of the Regions⁷,

Acting in accordance with the ordinary legislative procedure,

⁶ OJ C , , p. .

⁷ 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.
- (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 Council⁸ 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 Council⁹ 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 Council¹⁰ 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’).

⁸ 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).

⁹ 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).

¹⁰ 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’ 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 affects women and men differently and has a particular impact on some disadvantaged 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.
- (4) In Regulation (EU) 2021/1119 of the European Parliament and of the Council¹¹ (‘European Climate Law’), the Union has enshrined in legislation a binding objective of economy-wide climate neutrality by 2050. 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.
- (5) In order to implement those commitments as well as the Union’s contributions under the Paris Agreement¹² 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.

¹¹ 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).

¹² Paris Agreement (OJ L 282, 19.10.2016, p. 4).

- (7) While emissions trading will 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 Council¹³.
- (8) 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.

¹³ 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) In order to achieve the target of reducing greenhouse gas emissions by 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) 2020/2126¹⁴.

¹⁴ 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).

- (13) The COVID-19 pandemic has impacted 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, which also has 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 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. Moreover, in order to give predictability to Member States on the consequences of any unforeseen event, this update of the annual emission allocations should only be effective for a Member State if it results in a higher allocation for that Member State. The environmental integrity will be guaranteed by adjusting from 2023 the linear trajectory to the new ESR target of -40% by 2030.

(14a) 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 reduce transaction costs. Member States are already required to report the summary information on concluded transfers pursuant to Commission Implementing Regulation (EU) 2020/1208¹⁵. 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.

¹⁵ 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. 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. In view of the increased ambition level, it is appropriate to postpone the deadline for notifying the intention to make use of this flexibility from 31 December 2019 to 31 December 2023 for the Member States listed in Annex II that have not notified the Commission of an intention to make use of the flexibility, namely the Netherlands and Sweden.
- (16) In addition to that flexibility, a limited quantity of net removals and net emissions from land use, land-use change and forestry (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) 2021/268¹⁶. 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.

¹⁶ 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).

- (17) Considering, the introduction of more ambitious targets under 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.
- (18) The setting of more ambitious targets under Regulation (EU) 2018/841 will decrease the capacity of Member States to generate net removals that can be used for compliance under Regulation (EU) 2018/842. In addition, the split of the use of the LULUCF flexibility into two separate time periods, will further limit the availability of net removals for the purpose of compliance with Regulation (EU) 2018/842. As a result, some Member States might face challenges in meeting their targets under Regulation (EU) 2018/842, while some Member States, the same or other, might generate net removals that cannot be used for compliance with Regulation (EU) 2018/842. As long as the Union objectives as set out in Article 4 of Regulation (EU) 2021/1119 are met, in particular with regard to the maximum limit of the contribution of net removals, it is appropriate to create a new voluntary mechanism, in the form of an additional reserve, that will help adhering Member States to comply with their obligations.
- (18a) 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:

‘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 40% 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 as well as the objective of climate neutrality within the Union at the latest by 2050 under Regulation (EU) 2021/1119. 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 and 3 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 its 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 in 2022, at the annual allocation for that Member State, as set out pursuant to paragraph 3 of this Article for that year, or starting in 2024 at the average of its greenhouse gas emissions during the years 2021, 2022 and 2023, as submitted by that Member State pursuant to Article 26 of Regulation (EU) 2018/1999, whichever results in a higher allocation for that Member State, and ending in 2030 at the limit set for that Member State in column 2 of the table in Annex I to this Regulation.

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 and 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 either on the reviewed values of the national inventory data for the years 2016, 2017 and 2018 referred to in the second subparagraph or 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, whichever results in a higher allocation for that Member State.’;

- b) In paragraph 4, “Article 6(3)” is replaced by “Article 6(3), (3a) and (3b)”.

(3a) Article 5 is amended as follows:

- (a) in paragraph 4, “5%” is replaced by “10%” and “10% is replaced by “20%”;
- (b) the following paragraph is inserted:

‘5a. Before any effective 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 proceed to a transfer of part of its annual emission allocation for a given year.’

(4) Article 6 is amended as follows:

- (a) In the second paragraph of paragraph 3, the word “downwards” is deleted.
- (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 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 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 2025 to 2030 for each Member State concerned, for its compliance under Article 9.’;

(c) The following is inserted at the end of paragraph 4:

‘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) 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.

(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 CO₂ equivalent for the relevant years.’.

(7) The following article is inserted:

‘Article 11a

Additional reserve

1. If, by 2030, the Union has reduced net greenhouse gas emissions by at least 55% compared to 1990 levels in compliance with Article 4 of Regulation (EU) 2021/1119 of the European Parliament and of the Council**, and taking into account the maximum limit of the contribution of net removals, an additional reserve shall be established in the Union Registry.
2. Member States which decide to neither contribute to nor benefit from the additional reserve shall notify their decision to the Commission no later than twelve months after the date of entry into force of this amending Regulation.
3. The additional reserve shall consist of the net removals that participating Member States have generated in the period from 2026 to 2030 in excess of their respective targets pursuant to Regulation (EU) 2018/841, after deduction of:
 - (a) any flexibilities used under Articles 11 to 13b of Regulation (EU) 2018/841; and
 - (b) the quantities taken into account for compliance pursuant to Article 7 of this Regulation.

4. If an additional reserve is set up pursuant to paragraph 1, a participating Member State may benefit from it if the following conditions are fulfilled:
 - (a) the greenhouse gas emissions of that Member State exceed its annual emission allocations in the period from 2026 to 2030;
 - (b) that Member State has exhausted the flexibilities pursuant to Article 5(2) and (3);
 - (c) that Member State has made the maximum use possible of net removals in accordance with Article 7, even if the quantity of those net removals does not reach the level set in Annex III.
5. If a Member State fulfils the conditions set out in paragraph 4 of this Article, it shall receive an additional quantity from the additional reserve up to its shortfall to be used for compliance under Article 9 after deduction of any net transfers to other Member States under Article 5.

If the resulting collective quantity to be received by all of the Member States which fulfil the conditions set out in paragraph 4 of this Article exceeds the quantity allocated to the additional reserve under paragraph 3 of this Article, the quantity to be received by each of those Member States shall be reduced on a pro rata basis.’

** 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).

(7aa) Article 12 is amended as follows:

- (a) in point (d), the word “and” is deleted;
- (b) in point (e), the full stop is replaced by a semicolon;
- (c) the following point is inserted:
 - ‘(f) the additional reserve under Article 11a.’.

(7a) In Article 15, paragraph 2 is replaced by the following:

‘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, its contribution to the objective of climate neutrality within the Union at the latest by 2050, 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.’

(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 2

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 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 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 of:

- i. the Member State's intentions to make use of the flexibilities 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 in Article 7(1) of Regulation (EU) 2018/842.’

Article 3

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 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) | |
|----------------|---|----------|
| | Column 1 | Column 2 |
| Belgium | - 35 % | -47% |
| Bulgaria | - 0 % | -10% |
| Czech Republic | - 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% |
