Council of the
European Union

Brussels, 15 July 2021
(OR. en)

10867/21

Interinstitutional File:
2021/0200(COD)

CLIMA 189
ENV 524
ENER 325
TRANS 475
AGRI 354
IND 199
ECOFIN 742
CODEC 1098

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 July 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 555 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement

Delegations will find attached document COM(2021) 555 final.

Encl.: COM(2021) 555 final

EUROPEAN
COMMISSION

Brussels, 14.7.2021
COM(2021) 555 final

2021/0200 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement

(Text with EEA relevance)

{SEC(2021) 555 final} - {SWD(2021) 553 final} - {SWD(2021) 611 final} - {SWD(2021) 612 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The **European Green Deal Communication**[1] launched a new growth strategy for the EU that aims to transform the EU into a fair and prosperous society with a modern, resource-efficient and competitive economy. It reaffirms the Commission's ambition to increase its climate targets and make Europe the first climate-neutral continent by 2050. Furthermore, it aims to protect the health and well-being of citizens from environment-related risks and impacts. The necessity and value of the European Green Deal have only grown in light of the very severe effects of the COVID-19 pandemic on the health and economic well-being of the Union's citizens.

Tackling climate change is an urgent challenge. In line with the scientific findings of the Intergovernmental Panel on Climate Change (IPCC) Special Report, global net-zero CO_2 emissions need to be achieved around 2050, and neutrality for all other greenhouse gases later in the century. This urgent challenge requires the EU to step up its action and demonstrate global leadership by becoming climate neutral by 2050. This objective is set out in the Communication '**A Clean Planet for all'** - A European strategic long-term vision for a prosperous, modern, competitive and climate-neutral economy'[2].

Based on a comprehensive impact assessment, the Commission's Communication of September 2020 on **Stepping up Europe's 2030 climate ambition**[3] (2030 Climate Target Plan) proposed to raise the EU's ambition and put forward a comprehensive plan to increase the European Union's binding target for 2030 towards at least 55% net emission reductions compared to 1990, in a responsible way. Raising the 2030 ambition now helps give certainty to policymakers and investors, so that decisions made in the coming years do not lock in emission levels inconsistent with the EU's objective to be climate neutral by 2050. The 2030 target is in line with the Paris Agreement objective to keep the global temperature increase to well below 2°C and pursue efforts to keep it to 1.5°C.

The European Council endorsed the new EU binding target for 2030 at its meeting of December 2020[4]. It also called on the Commission "*to assess how all economic sectors can best contribute to the 2030 target and to make the necessary proposals, accompanied by an in-depth examination of the environmental, economic and social impact at Member State level, taking into account national energy and climate plans and reviewing existing flexibilities*".

To this end, the Regulation establishing the framework for achieving climate neutrality ('**European Climate Law**')[5] made the EU's climate neutrality target by 2050 legally binding, and raised the 2030 ambition, which shall be a *domestic* reduction of net greenhouse gas emissions (emissions after deduction of removals) by at least 55% compared to 1990 levels by 2030.

---

1 COM(2019) 640 final.
2 COM(2018) 773 final.
3 COM(2020) 690 final.
4 European Council Conclusions 10-11 December 2020 EUCO 22/20 CO EUR 17 CONCL 8.
5 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)..

In order to follow the pathway set in the European Climate Law and deliver this increased level of ambition for 2030, the Commission has reviewed the climate and energy legislation currently in place, which would likely only reduce greenhouse gas emissions by 40% by 2030 and by 60% by 2050.

This 'Fit for 55' legislative package, as announced in the Commission's Climate Target Plan, is the most comprehensive building block in the efforts to implement the ambitious new 2030 climate target, and all economic sectors and policies will need to make their contribution.

As a part of the 'Fit for 55' package, this proposal aims to amend the Effort Sharing Regulation[6] ('ESR') in order to align its contribution towards delivering the increased ambition for 2030. In December 2020, the European Council called for delivering the target collectively by the EU in the most cost-effective manner possible, preserving EU's competitiveness and taking account of Member States' different starting points, specific national circumstances and emission reduction potential. It gave further guidance on key elements for a revised 2030 climate and energy policy framework. To achieve at least 55% greenhouse gas emission reductions economy wide, the sectors under the Effort Sharing Regulation will need to step up efforts. The impact assessment supporting the Climate Target Plan indicated that overall reductions would need to increase by around 10 percentage points from the current ESR target of -30% compared to 2005. The need to review the ESR, decide on its scope and increase ambition were already elaborated in the Climate Target Plan.

The ESR currently covers all greenhouse gas emissions included in the EU's target which are covered neither by the EU Emissions Trading System (ETS) nor by the Regulation on Land-Use, Land-Use Change and Forestry (LULUCF). It currently covers direct greenhouse gas emissions from transport (except aviation and non-domestic shipping), buildings, agriculture, industrial installations and gases not covered by the EU ETS and waste as well as non-combustion related emissions from energy and product use. It includes both CO_2 emissions as well as a significant share of non-CO_2 emissions. The ESR legislation was adopted in 2018 to deliver a 30%[7] reduction in emissions covered by 2030 compared to 2005, coherent with an EU economy-wide emission reduction target of at least 40% by 2030 compared to 1990. The ESR establishes binding annual greenhouse gas emission targets for Member States which collectively deliver this reduction. If the legislation remains unchanged, sectors currently covered by the ESR would together achieve a 2030 emission reduction of -32% compared to 2005[8]. Even though this would mean outperforming the contribution of -30% referred to above, this would still be an insufficient contribution to an overall target of at least -55% compared to 1990, in line with the European Climate Law agreement. Therefore, the general objective of this initiative is to revise the ESR so that it contributes to the 2030 climate ambition to reach at least 55% net greenhouse gas emission reductions by 2030 below 1990 levels in a cost-effective and coherent way while taking into account the need for a just transition and the need for all sectors to contribute to the EU's climate efforts. The aim is to achieve a gradual and balanced trajectory towards climate neutrality by 2050.

[6] Regulation (EU) 2018/842 of the European Parliament and the Council of 20 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, OJ L156 of 19.6.2018, p.26.

[7] 29% for EU27.

[8] According to the EU Reference Scenario 2020 (REF) which serves as baseline for the impact assessment (see section 5.1 of the impact assessment).

This proposal upgrades national targets in line with an EU-wide reduction of 40% in the ESR sectors compared to 2005 by 2030. Member States contribute to the overall EU reduction in 2030 with targets ranging from -10% to -50% below 2005 levels.

• **Consistency with existing policy provisions in the policy area**

The Union has, notably through the 'Clean Energy for All Europeans' package[9], been pursuing an ambitious decarbonisation agenda, in particular by building a robust Energy Union, which includes 2030 goals for energy efficiency and deployment of renewable energy.

The 'Fit for 55' climate and energy package is a comprehensive step in overhauling Union legislation to align it with the EU's increased climate ambition. All initiatives in the package are closely interlinked.

This legislative proposal is complementary to other 'Fit for 55' proposals which are designed to deliver collectively as a package the climate objectives. The interaction between EU-level measures and Member States measures has been growing in importance and intensity. Therefore this legislative proposal maintains consistency with the:

(a) European Climate Law;

(b) Revision of the EU Emissions Trading System (ETS) Directive 2003/87/EC[10];

(c) Revision of the Regulation on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF);

(d) Amendment to the Renewable Energy Directive (EU) 2018/2001[11] to implement the ambition of the new 2030 climate target;

(e) Amendment of the Energy Efficiency Directive 2012/27/EU[12] to implement the ambition of the new 2030 climate target;

Together with the new EU adaptation strategy adopted in the Commission's Communication of February 2021 on **Forging a climate-resilient Europe - the new EU Strategy on Adaptation to Climate Change**[13], this initiative and the 'Fit for 55' climate and energy package will allow Europe to rise to meet the climate challenge.

• **Consistency with other Union policies**

The proposals of the 'Fit for 55' package should be consistent with all EU actions and policies and help the EU achieve the increased 2030 target and a successful and just transition towards the 2050 climate neutrality objective, as stated by the Commission in the European Green Deal Communication.

This Effort Sharing Regulation initiative is thus consistent with the Union policies on a clean and circular economy, sustainable and smart mobility, the Farm to Fork Strategy, the EU Biodiversity Strategy for 2030, the Action Plan on zero-pollution ambition and waste legislation, revisions of the Regulation on fluorinated greenhouse gas (F-gas Regulation) and

---

9 COM/2016/0860 final.

10 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).

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

12 Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency (OJ L 315 14.11.2012, p. 1).

13 COM(2021) 82 final.

the Regulation on substances that deplete the ozone layer (Ozone Regulation) as well as the Union's stance in the international arena and its Green Deal Diplomacy.

The 'Fit for 55' package together with the Next Generation EU instrument and the Multiannual Financial Framework for 2021-2027 will help achieving the twin green and digital transitions that Europe is aiming for. The combination of these policies and EU financial support will address the economic crisis caused by the COVID-19 pandemic and accelerate the shift to a clean and sustainable economy, linking climate action and economic growth while reaching climate neutrality by 2050. Overall, the EU budget (MFF) 2021-2027 and the Next Generation EU package will ensure a 30% climate mainstreaming expenditure target. As regards specifically the Resilience and Recovery Facility under Next Generation EU, each national recovery and resilience plan will have to include a minimum of 37% of expenditure related to climate investments. Cohesion policy will contribute to climate expenditure with 100% of the Just Transition Fund, and at least 37% of the Cohesion Fund and 30% of the European Regional Development Fund. These funds can heavily support the investments and reforms identified in the National Energy and Climate Plans, adopted based on the Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action[14] ('Governance Regulation') and help alleviating the socio-economic cost of the transition.

In addition, to reinforce consistency across policies, and as announced in its Communication **Better regulation: Joining forces to make better laws**[15], the Commission is improving its better regulation guidelines to ensure that all its initiatives comply with the 'do no significant harm' principle thus abiding by the obligations set under the European Climate Law.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal Basis

The legal basis for this proposal is Article 192 of the Treaty of the Functioning of the European Union (TFEU). In accordance with Article 191 and 192(1) TFEU, the European Union shall contribute to the pursuit, inter alia, of the following objectives: preserving, protecting and improving the quality of the environment; promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

• Subsidiarity

Climate change is a trans-boundary problem, which cannot be solved by national or local action alone. Coordination of climate action must be taken at European level and, where possible, at global level. EU action is justified on grounds of subsidiarity as set out in Article 5 of the Treaty of the European Union. Since 1992, the European Union has worked to develop joint solutions and drive forward global action to tackle climate change. More specifically, action at EU level will provide for cost effective delivery of the 2030 and long-term emission reduction objectives while ensuring fairness and environmental integrity.

14 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).

15 COM(2021) 219 final.

Articles 191 to 193 of the TFEU confirm and specify EU competencies in the area of climate change.

• Proportionality

This proposal complies with the proportionality principle because it does not go beyond what is necessary in order to achieve the objectives of implementing the EU's target for reducing greenhouse gas emissions for the period 2021 to 2030 in a cost-effective manner, while ensuring fairness and environmental integrity.

The European Climate Law has set an overall economy-wide and domestic reduction in greenhouse gas emissions of at least 55% below 1990 levels by 2030. This proposal covers a large part of these greenhouse gas emissions, and revises the ESR in order to achieve this objective.

• Choice of the instrument

The main aim of this initiative is to update the targets set in the ESR in order to align them to the increased level of ambition for 2030, and therefore the objective of the proposal is best pursued through a Regulation, following the previous legislative instrument for setting legally binding national emission reduction targets.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Ex-post evaluations/fitness checks of existing legislation

The ESR was adopted in 2018, following an evaluation[16] of the preceding framework, the Effort Sharing Decision 406/2009/EC[17]. Overall, Decision No 406/2009/EC has resulted in Member States becoming more active in considering new measures to reduce emission in its sectors and how to best design them.

• Stakeholder consultations

The revision of the ESR builds upon the feedback received during the preparation and after the presentation of the 2030 Climate Target Plan.

More precisely, for the purpose of this proposal, the Commission published on 29 October 2020 an inception impact assessment outlining the initial considerations and policy options of the revision. The inception impact assessment was open for feedback from 29 October 2020 to 26 November 2020 and 101 contributions were received[18].

Additionally, in order to collect evidence and ensure greater transparency, the Commission organised a public consultation from 13 November 2020 to 5 February 2021. This consultation was simultaneously launched alongside consultations on the ETS Directive, the LULUCF Regulation and the Regulation on CO_2 standards for cars and vans. The public consultation received 45678 responses, of which 45403 responses were submitted by citizens associated in a campaign. The remaining 276 responses were provided by business

[16] COM(2016) 483 Report from the Commission to the European Parliament and the Council on evaluating the implementation of Decision No. 406/2009/EC pursuant to its Article 14.

[17] 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).

[18] The feedback is available on the "have your say" online page of the European Commission, under "National emission reduction targets (Effort Sharing Regulation) – review based on 2030 climate target plan" and can be reached through the following link: feedback on the Inception Impact Assessment.

associations, businesses, individuals, public authorities and trade unions. The great majority of respondents agreed that the sectors covered by the ESR should deliver additional reductions and that Member States should step-up their efforts and pursue more ambitious targets. A majority of respondents were in favour of parallel coverage of ESR and ETS in case of an extension of the ETS, to buildings and road transport, with a large majority of NGOs and citizens' in favour of this option. A smaller but significant share of respondents were in favour of reducing the sectoral scope of the ESR with a much more limited majority of private sector replies in favour of this option (especially coming from the energy sector). A detailed summary and the results of the public consultation are presented in Annex 2 to the impact assessment for this proposal.

On 1 June 2021, EVP Timmermans and Commissioner Schmit held a social partners hearing to discuss the economic and social dimension of the Fit-for-55 package. The social partners provided support to the 55% reduction target and indicated their views as regards the different proposals of the package.

• Collection and use of expertise

As other proposals and impact assessments attached to the "Fit for 55" policy package, this proposal makes also use of a collection of integrated modelling tools covering the entire greenhouse gas emissions of the EU economy. These tools are used to produce a set of core scenarios reflecting self-consistent policy packages aligned with the increased 2030 climate target, building upon the scenarios developed for the 2030 Climate Target Plan. The scenarios are based on the updated EU Reference 2020 Scenario (REF 2020)[19], a projection of the evolution of EU and national energy systems and greenhouse gas emissions under the current policy framework[20], which includes COVID-19 impacts. These scenarios were prepared with the help of a contract with E3M lab, National Technical University of Athens, IIASA and EuroCare in coordination with Member States' experts through the Reference Scenario Expert Group, and the detailed modelling results will be published alongside the legal proposals.

The main modelling suite used to produce the scenarios presented in this impact assessment has a successful record of use in the Commission's energy and climate policy assessments. In particular, it has been used for the Commission's proposals for the Climate Target Plan[21] to analyse the increased 2030 mitigation target, the Long Term Strategy[22] as well as for the 2020 and 2030 EU's climate and energy policy framework.

The core elements of the modelling framework for energy, transport and CO_2 emission projections are two models: (i) Price-Induced Market Equilibrium System[23] (PRIMES) and; (ii) PRIMES-TREMOVE (transport model). The Greenhouse gas and Air Pollution Information and Simulation (GAINS) model is used for non-CO_2 greenhouse gas emission projections, the Global Biosphere Management (GLOBIOM-G4M) models for projections of Land Use, Land Use Change and Forestry emissions and removals and the global multi-country agricultural sector (CAPRI) model is used for agricultural activity projections.

[19] Modelling-based projections of energy, transport and greenhouse gas emissions trends to 2050, building on consistent set of assumptions across EU, Member States and EU policies, Member States specific characteristics; and relying on the consultation of Member States experts.

[20] The "current policy framework" includes EU initiatives adopted as of end of 2019 and the national objectives and policies and measures as set out in the final National Energy and Climate Plans.

[21] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020SC0176

[22] https://ec.europa.eu/clima/sites/clima/files/docs/pages/com_2018_733_analysis_in_support_en_0.pdf

[23] More information and model documentation: https://e3modelling.com/modelling-tools/primes/

In addition, the proposal builds on: (i) emissions data and experiences from the implementation of the EU monitoring, reporting and verification systems; (ii) evidence gathered in the impact assessment supporting the 2016 proposal for the ESR; (iii) and earlier studies related to road transport and buildings regarding greenhouse gas emissions.

Building on the basis of the REF2020, a set of "core" policy scenarios have been produced. They are designed to represent a net 55% greenhouse gas emission reduction through policy packages consistent with the policy options explored in the different impact assessments. These core policy scenarios are completed by policy-specific variants, and additional analyses, described in the impact assessment supporting this proposal and related impact assessments from the "Fit for 55" policy package.

• Impact assessment

The impact assessments for the different initiatives of the "Fit for 55" policy package are based on integrated modelling scenarios that reflect the interaction of different policy instruments on economic operators, in order to ensure complementarity, coherence and effectiveness in achieving the 2030 and 2050 climate ambition (see section above).

The impact assessment accompanying this proposal complements the analysis conducted in the 2020 impact assessment supporting the 2030 Climate Target Plan. This formed the analytical basis to set the objective of at least net 55% reduction in greenhouse gas emissions by 2030 compared to 1990 and the 2050 climate neutrality objective.

The Regulatory Scrutiny Board has issued a positive opinion on 19 April 2021, with recommendations for improvement. The impact assessment was amended accordingly. The main changes concern the following points:

- Improved problem description to identify sufficiently the shortcomings of the current ESR;
- Coherence with other linked initiatives, especially with the ETS and LULUCF revisions, and the European Climate Law;
- Demonstrating the proportionality of keeping the ESR scope for sectors that will be covered by the new ETS;
- Improved and clarified distribution of efforts across Member States;
- Improved identification of who will be affected and how, costs and benefits of the preferred option and detailed stakeholder groups views.

• Policy options

The impact assessment analyses three main policy options:

1. Extend the ETS to some of the sectors currently covered by the ESR (i.e. buildings and road transport), while keeping such sectors also under the ESR;

2. Transfer certain sectors to the ETS (i.e. buildings and road transport) and reduce accordingly the scope of the ESR;

3. Transfer certain sectors to the ETS (all fossil fuel combustion) and phase out the ESR by merging the non-energy related ESR emissions from agriculture with the sectors covered by the LULUCF Regulation (in the so-called land sector) and cover remaining sectors under relevant climate policy instruments and specific new regulation (if need be) which would cover all non-ETS sectors currently covered under ESR.

Within options 1 and 2, the impact assessment also addresses the appropriate level of increase of the targets on emission reductions, namely whether the increase should be strong or moderate, the distribution of efforts among Member States and their contribution to the collective target, the starting point of the annual allocations trajectories, and the functioning of the ETS and LULUCF flexibilities.

So far, the EU ETS Directive, the ESR and the LULUCF Regulation together have covered the greenhouse emissions of different parts of the economy, each of them defining the contribution of the covered sectors to the overall target. Specific questions arise from the extension of carbon pricing, an important tool to combat greenhouse gas emissions, to new sectors.

The creation of a new emission trading for road transport and buildings warranted the consideration of the scope of the Effort Sharing Regulation itself, taking into account the effectiveness, cost-efficiency and fairness of the instrument and the climate policy architecture as a whole. Similarly, a change in the scope of the LULUCF Regulation towards a Land Use instrument could also impact the ESR scope. However, the LULUCF proposal only foresees national targets for the land sector after 2030, and therefore, does not impact the ESR proposal, which has a time scope limited to 2030. Additionally, different options for the scope of the ESR have been considered and assessed in the impact assessment, notably whether or not a sector is included both in the ESR and in emission trading, and/or a land use instrument would impact the achievement of the overall EU target by 2030.

The application of emissions trading to sectors such as buildings and road transport will cover around half of the emissions of today's Effort Sharing Regulation. As with the current ETS, such a system will integrate the price of CO2 in economic and financial decisions and will be an important tool to incentivise cost effective action by business and consumers in these sectors across all Member States. At the same time, a carbon price on its own would not deliver the required transformation in the sectors concerned in an efficient manner. The 2030 Climate Target Plan concluded that there is a clear need for complementary and targeted policies. These can address market failures and split incentives, accelerate technological change and develop the required infrastructure in a coordinated way (e.g. for building renovation, electrification and hydrogen technology for industry).

Therefore, it would be premature to leave the aimed decrease in emissions from buildings and road transport exclusively to emission trading. Such an option will deserve proper consideration in a future review of the ESR, building on the lessons learned from the functioning of emission trading for these two sectors.

The preferred option is to increase ambition in the ESR, in line with the cost efficient projections, to achieve the overall climate ambition for 2030 set out in the 2030 Climate Target Plan. The extension of emission trading to new sectors – road transport and building- while keeping them under the ESR scope, is seen as contributing to the achievement of the ESR target, and not as a substitution of it.

Increasing the national targets under the ESR requires revisiting fairness and cost efficiency within the instrument. As regards fairness, the assessment concludes that an update of the target setting approach based on GDP per capita is still appropriate, while applying a limited amount of targeted corrections to address cost efficiency concerns. Overall this will drive towards convergence of per capita emissions in these sectors across the EU.

In view of ensuring maximum cost-efficiency, all existing flexibilities are expected to be used with the increased ambition, reflected in a 40% EU target for ESR. The flexibility instruments, both in their scale and functioning, are deemed to be appropriate to ensure enhanced cost efficiency of the overall policy.

New binding national limits, expressed in annual emission allocations, progressively leading to the 2030 target of each Member State will need to be established for the years 2023 to 2030. The emission allocations for the years 2023, 2024 and 2025 will be calculated on the basis of the greenhouse gas emissions data for the years 2005 and 2016 to 2018 as reviewed by the Commission in accordance with Article 4(3) of the ESR. For greater accuracy, the calculation of the annual emission allocations for the years 2026 to 2030 will be based on the average of the greenhouse gas emissions of each Member State during the years 2021, 2022 and 2023 following a comprehensive review of the national inventory data to be carried out by the Commission in 2025.

Furthermore, the Commission is to carry out, in 2027, a comprehensive review of the national inventory data for the purpose of compliance with the ESR, as provided for in Article 38 of the Governance Regulation. The Commission will determine by means of implementing acts, the scope of those two comprehensive reviews in order to avoid unnecessary duplication of tasks.

The European Climate Law foresees that in order to ensure that sufficient mitigation efforts are deployed until 2030, the contribution of net removals to the at least net 55% greenhouse reduction target in 2030 shall be limited to 225 Mt $CO_{2\text{-eq.}}$ This provision in the European Climate Law is without prejudice to the revision of Union legislation. The proposed increase in ambition of the LULUCF Regulation, together with splitting the existing LULUCF flexibility for use in each of the 5 year compliance periods, reduces the likelihood of not meeting the requirements of the Climate Law. Still, allowing for flexibility from the ESR sector into the LULUCF sectors and limited flexibility vice versa, is beneficial in order to enable Member States to comply effectively with their individual obligations.

The establishment of a new mechanism taking the form of an additional reserve is proposed. Member States can decide to opt-out. This reserve could be triggered only once the requirements of the Climate Law are fulfilled, for the purpose of national compliance with ESR targets by transferring any unused LULUCF credits[24] at the end of the second compliance period to those Member States in need. However, the use of this reserve will depend on over-performance in the LULUCF sector.

• Regulatory fitness and simplification

In line with the Commission commitment to Better Regulation, the proposal has been prepared inclusively, based on transparency and continuous engagement with stakeholders.

The ESR sets emission reduction targets for Member States at national level. It is thus for Member States to decide how to achieve such targets (for reasons of subsidiarity). This proposal, while revising the targets to be achieved by each Member States by 2030, does not impose additional administrative burden on national administrations, as main actors in this regard targeted by the ESR.

• Fundamental rights

The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union[25]. In particular, it contributes to the objective of a high level of environmental protection in accordance with the

[24] Unused net removals are those not used in the current LULUCF flexibility of Article 7 ESR, and not used in the newly designed LULUCF safety reserve.

[25] COM(2019) 640 final.

principle of sustainable development as laid down in Article 37 of the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

A good implementation of the proposal amending the ESR will be crucial for the achievement of its objectives and the objectives set in the European Climate Law. The increase in the ESR targets will require additional measures at national level and Member States, will need to revise and implement more stringent climate action strategies. Therefore there is a need for capacity building support measures to be implemented throughout five years (2023-2027) allowing Member States to adjust to a more demanding framework. The total estimated cost of the support measures is EUR 1 750 000.

The proposal also revises the LULUCF flexibility set in Article 7 of the ESR and creates a new voluntary reserve, the additional reserve, to help Member States reaching their individual targets, allowing them to use non used net removals generated in the period 2026-2030, subject to the condition that the Union 55% emission reduction target is reached in 2030 with a maximum contribution of net removals set at 225 $MtCO_2Eq$, as required by the European Climate Law. These amendments will require adjustments in the Union Registry which will need to be implemented with the support of an external contractor, with an estimated cost of EUR 600 000.

The above mentioned tasks will also require an increase capacity from the services of the Commission which will need three new AD posts, which will also provide support for the co-decision process. The attached legislative financial statement provide detailed information on the implications of this proposal to the EU budget.

IT development and procurement choices will be subject to pre-approval by the European Commission Information Technology and Cybersecurity Board.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

Transparent and regular reporting on Member State obligations coupled with robust compliance checks are fundamental elements ensuring progress in delivering the EU long-term emission reduction commitments. The initiative maintains the compliance regime of the ESR and continues to rely on the robust monitoring, reporting and verification framework provided in the Governance Regulation. The Commission will use inter alia the information submitted and reported by Member States under the Governance Regulation as a basis for its regular assessment of progress. This includes information on greenhouse gas emissions, policies and measures, projections and adaptation. The Commission will also make use of this information for the Environmental Implementation Reviews and the monitoring of the Environment Action Programmes. Information obtained from Member States may be complemented by systematic atmospheric observations through in situ as well as remote sensing observations, such as those provided by Copernicus.

The effectiveness of the proposal in achieving the revised 2030 targets depends of the capacity of Member States to adjust their plans and strategies to a more vigorous response to the challenge of climate change. In this context the Commission will put in place capacity building measures to support Member States in their efforts to incorporate the revised targets into their national climate plans and strategies, including the National Energy and Climate Plans.

This initiative also maintains the review provisions in place, requiring the Commission to 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. The first global stocktake will take place in 2023, and will be repeated every five years thereafter.

Finally, the ESR, its relevance as a regulatory instrument and its scope will be subject to review for the development of the climate and energy framework post-2030, taking into account the interactions between the various instruments, in particular the extension of emission trading to new sectors and the regulation of an agriculture land use and forestry pillar.

• Detailed explanation of the specific provisions of the proposal

Article 1

This Article contains all the proposed amendments to the ESR, namely:

(1) **Article 1 on subject matter**: to update the reference to the EU-level ESR emission reduction target;

(2) **Article 2 on scope**: to adjust how the scope is defined taking into account the proposed inclusion of maritime transport in Annex I of Directive 2003/87/EC;

(3) **Article 4, paragraphs (2) and (3) on annual emission levels 2021-2030**: to update the framework under which the Commission will set the new Member States' annual emission levels in the years 2023–2030. The new framework includes an update of the national annual emission allocations making use of the new data that will only become available in 2025. Given the uncertainties of associated with medium term effects of the COVID-19 pandemic in the economy and the speediness of the recovery, the 2025 review will allow an adjustment of the annual emission allocations for the years of 2026 to 2030 in order to ensure that they are neither too lenient nor too stringent;

(4) **Article 6, a new paragraph (3a) on EU ETS flexibility**: providing Malta with a deadline to indicate whether it intends to use its increased ETS flexibility. This new deadline is necessary given that, due to the specificities of its economy, Malta will have access to an increased ETS flexibility through an amendment of Annex II of the ESR;

(5) **Article 7 on use of removals from LULUCF**: to split the use of the LULUCF flexibility into two five-year periods and subject each period to a cap corresponding to half of the total amount; and to remove paragraph 2 given that the envisaged change of the title of Annex III will be carried out through the amendment of the ESR as hereby proposed (see point 9 below);

(6) **Add a new Article (Article 11a)**: setting up a voluntary additional reserve (formed by any unused LULUCF credits at the end of the second compliance period) to be used by Member States for compliance with their ESR 2030 target, subject to the condition that the -55% EU-level target is reached with a maximum contribution of 225 $MtCO_2Eq$ of net removals in accordance with the European Climate Law. This additional flexibility will facilitate compliance by Member States that may have difficulties in coping with more stringent national targets both in the ESR sectors and the LULUCF sectors, only at the end of the period;

(7) **Annex I on Member States' greenhouse gas emission reductions**: to insert new Member States' emission reduction targets by 2030 in relation to 2005 levels for sectors covered by the ESR;

(8) **Annex II on ETS flexibility**: to increase Malta's ETS flexibility limit from 2% to 7%;

(9) **Annex III**: to amend its title in accordance with the new text of Article 7.

2021/0200 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement

(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[26],

Having regard to the opinion of the Committee of the Regions[27],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The Paris Agreement, adopted in December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC), entered into force in 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 to achieve 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. The legislation implementing that target consists, inter alia, of Directive 2003/87/EC of the European Parliament and of the Council[28] (which establishes a system for greenhouse gas emission allowance trading within the Union), Regulation (EU) 2018/841 of the European Parliament and of the Council[29] (which requires Member States to balance greenhouse gas emissions and removals from land use, land use change and forestry), and Regulation (EU)

---

26 OJ C , , p. .

27 OJ C , , p. .

28 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).

29 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).

2018/842 of the European Parliament and of the Council[30], which establishes national targets for reduction of greenhouse gas emissions by 2030, in the sectors neither covered by Directive 2003/87/EC, nor by Regulation 2018/841.

(3) The European Green Deal[31] 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, this 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 Council[32] ('European Climate Law'), the Union has enshrined into legislation the target of economy-wide climate neutrality by 2050. That Regulation also establishes a binding Union domestic reduction commitment 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 Agreement[33] adopted under the UNFCCC, the Union regulatory framework to achieve the 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.

(7) While emissions trading will also apply to greenhouse gas emissions from road and maritime transport as well as buildings, the scope of Regulation (EU) 2018/842 will be maintained. Regulation (EU) 2018/842 will therefore continue applying 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 Council[34].

---

30 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).

31 Commission Communication - The European Green Deal, COM(2019) 640 final of 11 December 2019.

32 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).

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

34 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,

(8) In its Communication of 17 September 2020[35] the Commission indicated that the increased 2030 overall 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 this effort, taking into account considerations of fairness and solidarity, while leaving no one behind, and that the new 2030 target needs to be achieved in a way that preserves the Union's competitiveness and takes account of Member States' different starting points and specific national circumstances and emission reduction potential, including those of island Member States and islands, as well as efforts made.

(10) In order to achieve the target of reducing greenhouse gas emissions by 55%, the sectors covered by Regulation (EU) 2018/842 will need to reduce their emissions progressively until they reach-40% in 2030, compared to 2005 levels.

(11) For that purpose, the greenhouse gas emission reduction target for 2030 needs to be revised for each Member State. The revision of the greenhouse gas emission reduction target should use the same methodology that was followed when Regulation (EU) 2018/842 was first adopted, where the national contributions were determined in consideration of the different capacities and cost-efficiency opportunities in Member States so to ensure a fair and balanced distribution of the effort. The reduction of the maximum greenhouse gas emissions 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 emission trading system of the Union 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 target of each Member State, while keeping in force the annual limits established for the years preceding it as set in Commission Implementing Decision (EU) 2020/2126[36].

(13) The COVID-19 pandemic has impacted the Union's economy and its level of emissions to a degree that cannot yet be fully quantified. On the other hand, the Union is deploying its largest stimulus package ever, also having 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) It is therefore appropriate to update in 2025 the annual emission allocations for the years 2026 to 2030. This 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.

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).

[35] COM/2020/562 final.

[36] 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).

(15) Under Regulation (EU) 2018/842, the cancellation of a limited quantity of emission allowances in the European Union emission trading system 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 reduction target of that Member State based on Gross Domestic Product per capita is significantly above its cost-effective reduction potential, is is therefore appropriate to increase Malta's access to that flexibility, without compromising the 2030 target of the Union on emission reductions.

(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 such 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 in line with the amendment to Regulation (EU) 2018/841 carried out by Commission Delegated Regulation (EU) 2021/268 of 28 October 2020[37]. 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.

(17) Considering, the introduction of a strengthened compliance regime in Regulation (EU) 2018/841 as of 2026, it is appropriate to abolish the deduction of the greenhouse gas emissions generated by each Member State in the period from 2026 to 2030 in the land sector in excess of its removals. Article 9(2) should therefore be amended accordingly.

(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 may face challenges in meeting their targets under Regulation (EU) 2018/842, while some Member States, the same or other, may 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 3 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.

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

[37] 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).

HAVE ADOPTED THIS REGULATION:

Article 1

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

(1) In Article 1, “30%” is replaced by “40%”;

(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) In Article 4, paragraphs 2 and 3 are replaced by the following:

‘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) 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 during 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 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 2024, at the average of its greenhouse gas emissions during the years 2021, 2022 and 2023, as submitted by the Member State pursuant to Article 26 of Regulation (EU) 2018/1999, and ending in 2030 at the limit set for that Member State in column 2 of Annex I to this Regulation.

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 CO_2 equivalent in accordance with the linear trajectories set out in paragraph 2.

For the years 2021 and 2022, it shall determine the annual emission allocations based on a comprehensive review of the most recent national inventory data for the years 2005 and 2016 to 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 and 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 and on a comprehensive review of the most recent national inventory data for the years 2021, 2022 and 2023 submitted by the Member States pursuant to Article 26 of Regulation (EU) 2018/1999.

(4) in Article 6 the following paragraph 3a is 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’.

(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 3 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 nor benefit from the additional reserve shall notify their decision to the Commission no later than six months after the entry into force of this Regulation.

3. The additional reserve shall consist of the net removals that participating Member States have generated in the period 2026 to 2030 in excess of their respective targets pursuant to Regulation (EU) 2018/841, after deduction of both of the following:

(a) any flexibilities used under Articles 11 to 13b of Regulation (EU) 2018/841;

(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 the Member State exceed its annual emission allocations in the period from 2026 to 2030;

(b) the Member State has exhausted the flexibilities pursuant to Article 5(2) and (3);

(c) the Member State has made the maximum use possible of net removals in accordance with Article 7, even if that quantity does not reach the level set in Annex III; and

(d) the Member State has made no net transfers to other Member States under Article 5.

5. If a Member States fulfils the conditions set out in paragraph 4, it shall receive an additional quantity from the additional reserve up to its shortfall to be used for compliance under Article 9.

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).

(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) 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 POINT (a) OF ARTICLE 7(1) OF THIS REGULATION’

Article 2

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

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

Done at Brussels,

For the European Parliament
The President
David Sassoli

For the Council
The President
Ursula von der Leyen

<u>**LEGISLATIVE FINANCIAL STATEMENT**</u>

Contents

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

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

1.2. Policy area(s) concerned

Climate Action Heading 3 Natural resources and Environment Title 9 – Environment and Climate Action

1.3. The proposal/initiative relates to:

☐ a new action

☐ a new action following a pilot project/preparatory action[38]

✓ the extension of an existing action

☐ a merger or redirection of one or more actions towards another/a new action

1.4. Objective(s)

1.4.1. General objective(s)

The proposal is part of the 2030 Climate and Energy "Fit for 55" package to achieve the EU 2030 greenhouse gas emission reduction target of at least -55% compared to 1990 domestically in a cost effective manner and contribute to limiting global warming. The package delivers on the Commission's obligation, set in Article 3 of the Climate Law, of reviewing relevant Union legislation in order to enable the achievement of the above mentioned target. The proposal reviews and updates the collective and national emission reduction targets to be achieved in 2030 by the sectors covered by the Effort Sharing Regulation and adjusts accordingly its framework and flexibility mechanisms.

1.4.2. Specific objective(s)

Contribute to the 2030 at least -55% net greenhouse emissions target and to the climate neutrality objective by 2050 by means of monitoring progress and checking compliance of Member States' emission reduction obligations under the proposal in order to achieve an EU-wide 40% reduction in greenhouse emissions in the ESR sectors compared to 2005 in way that is fair, cost-efficient and ensures environmental integrity.

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

[38] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

The proposal will deliver an EU-wide 40% reduction in greenhouse gas emissions in the ESR sectors by 2030 compared to 2005.

The proposal sets national ESR targets based mainly on GDP per capita, in order to ensure fairness and cost effectiveness in effort distribution, while enabling though its flexibilities a cost-efficient achievement of such targets.

The proposal is addressed at Member States as institutional actors. The proposed policy is to be implemented at national level and thus mostly affects their national administrations. The nature and scope of national measures chosen by Member States to implement the policy will determine which stakeholders are affected.

1.4.4. Indicators of performance

Specify the indicators for monitoring progress and achievements.

Indicator nr 1: Level of reduction of non-ETS greenhouse gas emissions in the EU.

Indicator nr 2: Level of emission reductions in the Member States.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

Member States shall meet their national emission reduction targets in 2030. They are to implement policies and measures and legal and administrative provisions necessary on national level to comply with the proposal.

The Commission is to develop the relevant implementing measures, including setting new annual emission allocations for the years 2023, 2024 and 2025, as well as, after a comprehensive review of the inventory data for the years 2026 to 2030.

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Climate change is a trans-boundary problem. Since the objective of the proposed action cannot be sufficiently achieved by the Member States acting individually, coordination of climate action at European level and, where possible, at global level is necessary and EU action is justified on grounds of subsidiarity. The EU and its Member States participate jointly in the implementation of the Paris Agreement. Joint action allows the EU to address issues of both equity and efficiency, while reaching an ambitious environmental goal. Articles 191 to 193 of the TFEU confirm EU competencies in the area of climate change.

1.5.3. Lessons learned from similar experiences in the past

The implementation and functioning of the Effort Sharing framework (first through Decision No 406/2009/EC, followed by the Effort Sharing Regulation - to be amended through this proposal) has resulted in Member States becoming more active in considering new measures to reduce emission in sectors and how to best design them.

With existing national policies and measures implemented, EU-27 total emissions are projected to be reduced by 30% in 2030 according to aggregated national greenhouse gas projections. In 2019, all Member States prepared their final integrated National Energy and Climate Plans. With the implementation of the planned measures or stated ambitions in the final NECPs, the overall greenhouse gas reduction of the EU is estimated at 41%, thus reaching the current at least 40% reduction target.

Readjusting and revising the ESR will further enhance the Member States engagement in the collective effort of scaling up the fight against climate change.

1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

The proposals is part of the ‘fit for 55’ package bringing together a set of mutually reinforcing initiatives within the Climate and Energy Framework which will enable the Union to reduce net greenhouse gas emissions by at least 55% compared to 1990 levels by 2030, as required by the Climate Law.

The ‘fit for 55’ package and the Next Generation EU and the Multiannual Financial Framework for 2021-2027, will help achieving the twin green and digital transitions that Europe is aiming for. The initiative is also consistent with the Union policies on a clean and circular economy, sustainable and smart mobility, the Farm to Fork Strategy, EU biodiversity strategy for 2030, and the upcoming action plan on zero-pollution ambition as well as its stance in the international arena and its Green Deal Diplomacy.

1.5.5. *Assessment of the different available financing options, including scope for redeployment*

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

- ☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

✓ **unlimited duration**

1.7. Management mode(s) planned[39]

✓ **Direct management** by the Commission

✓ by its departments, including by its staff in the Union delegations;

☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

☐ third countries or the bodies they have designated;

☐ international organisations and their agencies (to be specified);

☐ the EIB and the European Investment Fund;

☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

[39] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

If more than one management mode is indicated, please provide details in the 'Comments' section.

Comments

The proposal continues the Effort Sharing Regulation with the same monitoring and reporting obligations for Member States and management tasks for the Commission. The Commission will continue to be supported by the European Environment Agency in monitoring Member States' progress in meeting their obligations under the proposal.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Compliance will rely on the existing comprehensive framework of monitoring, reporting and verification laid down partially in the Effort Sharing Regulation and partially in Regulation (EU) 2018/1999 (‘the Governance Regulation’) and its implementing provisions. To ensure that the compliance assessment relies on accurate data, the greenhouse gas emissions inventories submitted by Member States will continue to be reviewed by the Commission. The European Environment Agency will continue to co-ordinate the control of the transparency, accuracy, consistency, comparability and completeness of the information submitted.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

Not applicable - The proposal is not implementing a financial programme but designing a long-term policy. Management mode, funding implementation mechanisms, payment modalities and control strategy in relation to error rates are not applicable. The implementation of this proposal will require the redeployment of human resources within the Commission. Appropriate procedures are in place.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

Member States not reporting or not reporting on time their annual greenhouse gas emissions.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

This initiative does not bring about new significant controls/risks that would not be covered be an existing internal control framework. No specific measures beyond the application of the Financial Regulation have been envisaged.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The monitoring of Member States’ progress toward their commitments under this proposal relies on a well-established existing system for quality control and verification of their annual reports of greenhouse gas emissions. This ensures that any gaps or irregularities with respect to the reported emissions data are addressed and corrected in time for the compliance check.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

<u>In order</u> of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of	Contribution			
	Number	Diff./Non-diff.[1]	from EFTA countries[2]	from candidate countries[3]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
3	09 01 01 01	Non-diff.	YES	NO	NO	NO
3	09 02 03	Diff.	YES	NO	NO	NO
7	20 01 02 01	Non-diff.	NO	NO	NO	NO
7	20 02 06 01	Non-diff.	NO	NO	NO	NO
7	20 02 06 02	Non-diff.	NO	NO	NO	NO
7	20 02 06 03	Non-diff.	NO	NO	NO	NO

- New budget lines requested: Not applicable.

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ✓ The proposal/initiative requires the use of operational appropriations, as explained below:

EUR million (to three decimal places)

Heading of multiannual financial framework	3	'natural resources and environment'

DG: CLIMA			2023	2024	2025	2026	2027	TOTAL
Operational appropriations								
09 02 03	Commitments	(1)	1,750					**1,750**
	Payments	(2)		0,700	1,050			**1,750**
Appropriations of an administrative nature financed from the envelope of specific programmes								
09 01 01 01		(3)			**0,467**	**0.042**	**0.092**	**0.601**
TOTAL appropriations DG CLIMA	Commitments	= 1 + 3	1,750		0,467	0,042	0,092	**2,351**
	Payments	= 2 + 3		0,700	1,517	0,042	0,092	**2,351**

TOTAL operational appropriations	Commitments	(4)	1,750		0,467	0.042	0,092	**2,351**
	Payments	(5)		0,700	1.517	0,042	0,092	**2,351**
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)						
TOTAL appropriations under HEADING 3 of the multiannual financial framework	Commitments	= 4+ 6	1,750		0,467	0,042	0,092	**2,351**
	Payments	= 5+ 6		0,700	1517	0,042	0,092	**2,351**

Heading of multiannual financial framework	7	'Administrative expenditure'

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		2023	2024	2025	2026	2027	TOTAL
DG: CLIMA							
Ÿ Human resources		0,465	0,474	0,484	0,494	0,503	2,421
Ÿ Other administrative expenditure		0,055	0,107	0,107	-	-	0,269
TOTAL DG CLIMA	Appropriations	**0,520**	**0,581**	**0,591**	**0,494**	**0,503**	**2,689**
TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments =Total payments)	**0,520**	**0,581**	**0,591**	**0,494**	**0,503**	**2,689**

		2023	2024	2025	2026	2027	TOTAL
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	2,270	0,581	1,058	0,536	0,595	**5,040**
	Payments	0,520	1,281	2,108	0,536	0,595	**5,040**

3.2.2. *Estimated output funded with operational appropriations*

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs	budget line	Type[40]	Average cost	2023 No	2023 Cost	2024 No	2024 Cost	2025 No	2025 Cost	2026 No	2026 Cost	2027 No	2027 Cost	total No	total Cost
				OUTPUTS											
specific objective ESR[41]															
- modifications Union Registry		Service Contracts			0,000		0,000		0,075		0,000		0,000		0,075
		QTM, Extramuros, equipment			0,000		0,000		0,350		0,000		0,050		0,400
- extension Service desk		Service Contracts			0,000		0,000		0,000		0,000		0,000		0,000
		QTM, Extramuros, equipment			0,000		0,000		0,042		0,042		0,042		0,126
Subtotal for specific objective ESR					0,000		0,000		0,467		0,042		0,092		0,601
TOTALS					**0,000**		**0,000**		**0,467**		**0,042**		**0,092**		**0,601**

40 Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

41 As described in point 1.4.2. 'Specific objective(s)…'

3.2.3. *Summary of estimated impact on administrative appropriations*

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

– ✓ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	2023	2024	2025	2026	2027	TOTAL
HEADING 7 of the multiannual financial framework						
Human resources	0,465	0,474	0,484	0,494	0,503	**2,421**
Other administrative expenditure	0,055	0,107	0,107	-	-	**0,269**
Subtotal HEADING 7 of the multiannual financial framework	0,520	0,581	0,591	0,494	0,503	**2,689**
Outside HEADING 7[1] of the multiannual financial framework						
Human resources	-	-	-	-	-	**-**
Other expenditure of an administrative nature	-	-	-	-	-	**-**
Subtotal outside HEADING 7 of the multiannual financial framework	-	-	-	-	-	**-**
TOTAL	0,520	0,581	0,591	0,494	0,503	**2,689**

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

3.2.3.1. Estimated requirements of human resources

– ☐ The proposal/initiative does not require the use of human resources.

– ✓ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		2023	2024	2025	2026	2027
Ÿ Establishment plan posts (officials and temporary staff)						
20 01 02 01 (Headquarters and Commission's Representation Offices)		3	3	3	3	3
20 01 02 03 (Delegations)						
01 01 01 01 (Indirect research)						
01 01 01 11 (Direct research)						
Other budget lines (specify)						
Ÿ External staff (in Full Time Equivalent unit: FTE)[1]						
20 02 01 (AC, END, INT from the 'global envelope')						
20 02 03 (AC, AL, END, INT and JPD in the delegations)						
XX 01 xx yy zz [2]	- at Headquarters					
	- in Delegations					
01 01 01 02 (AC, END, INT - Indirect research)						
01 01 01 12 (AC, END, INT - Direct research)						
Other budget lines (specify)						
TOTAL		**3**	**3**	**3**	**3**	**3**

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	2 AD: Calculation of new Annual Emission Allocations 2023-2030, and corresponding Commission implementing act . 2025 and 2027 Inventory Comprehensive Review (contract management and related implementing acts). Business Analysis for IT adaptations and subsequent operation thereafter of the new elements in the Union Registry. Business Intelligence and Reporting obligations. Customer Relationship Management and coordination of new Service Desk resources. 1 AD: Capacity building of Member States to design emission reduction strategies. Support Member States' in updating their national energy and climate plans under the Governance Regulation to step up their national climate policies and measures, to trigger the needed emission reductions by 2030.
External staff	-

3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

– ✓ can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

that the expenditure will be incurred within the LIFE envelope

– ☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

– ☐ requires a revision of the MFF.

3.2.5. *Third-party contributions*

The proposal/initiative:

– ✓ does not provide for co-financing by third parties

– ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	2023	**2024**	**2025**	**2026**	**2027**	Total
Specify the co-financing body						
TOTAL appropriations co-financed						

3.3. Estimated impact on revenue

- ✓ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
  - ☐ on own resources
  - ☐ on other revenue
  - please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[42]						
		Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**		**Total**
Article ………….								

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[42] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.