交通运输行业团体标准

《客车生命周期环境影响评价技术规范》

编制说明

标准起草组

2023 年 5 月

目录

一、工作简况 3
二、制定标准的目的、意义及必要性 6
三、标准编制原则和主要内容 13
四、主要试验（或验证）分析 21
五、预期经济效益与社会效益分析 21
六、采用国际标准和国外先进标准的程度 21
七、与现行有关法律、法规和强制性标准的关系 22
八、标准中涉及知识产权情况说明 22
九、重大分歧意见的处理经过和依据 22
十、标准性质的建议说明 22
十一、贯彻标准的要求和实施措施 22
十二、其他应予说明的事项 23

一、工作简况

（一）任务来源

降碳减排是我国针对新形势做出的重要战略部署。2020 年中国在联合国大会上宣布 2030 年前实现碳达峰，2060 年前实现碳中和目标。2021 年习近平总书记指出“十四五”是碳达峰的关键期、窗口期。交通领域要加快推动降碳减排技术发展，建立评估体系，形成绿色低碳运输方式。2022 年国务院总理李克强在政府工作报告中指出，要有序推进碳达峰、碳中和工作，落实碳达峰行动方案。主要污染物排放量继续下降，地级及以上城市细颗粒物平均浓度下降 9.1%。完善减污降碳激励约束体系，加快形成绿色生产生活方式。《国家综合立体交通网规划纲要》（2021-2035）明确要求加大交通污染监测和综合治理力度，从源头减少污染物、二氧化碳等排放，构建符合高质量发展的标准体系、关键技术与测试方法，促进清洁化、低碳化发展。

M2 和 M3 类客车有着重量大，排放多的特点，为整个汽车产业的碳排放总量贡献较大，所以对于客车的全生命周期碳减排工作迫在眉睫。但是客车的全生命周期较长，涉及的产业链企业较多，要想精准的进行减碳工作，就要先核算客车全生命周期中的各个环节的碳排放量，针对碳排放量较大的环节进行减碳处理。但是目前国内尚未对 M2 和 M3 类客车的碳排放进行系统的生命周期综合研究评价，特别缺乏客车行业核算标准，这将成为众多客车企业碳减排工作上的绊脚石。

因此，建立《客车生命周期环境影响评价技术规范》目的是为了给社会各界提供一个科学，详细的客车生命周期环境影响评价方法，促进交通运输行业清洁化、低碳化发展。

（二）协作单位

标准起草单位由招商局检测车辆技术研究院有限公司牵头，中通客车股份有限公司、宇通客车股份有限公司、厦门金龙客车有限公司、北京福田欧辉新能源汽车有限公司、金龙联合汽车工业（苏州）有限公司、扬州亚星客车股份有限公司、比亚迪客车有限公司、安徽安凯汽车股份有限公司、中机科（北京）车辆检测工程研究院有限公司、交通运输部科学研究院、中公高远（北京）汽车检测技术有限公司、北京绿交所、长安大学、中国公路学会客车分会等企业参与，形成校企联合的合作模式，发挥各家所长，共同形成理论性与实操性相融合的标准内容。

（三）主要工作过程

（1）工作思路

在研究客车生命周期环境影响评价技术规范现状背景的前提下，以现行国家层面相关法律法规、标准规范和指导意见为基本遵循，以相关客车企业环境影响评价技术的相关探索为实践支撑，结合对相关行业主管部门、客车企业、评价技术人员和其他利益相关方的深入走访调研，分析总结实践经验，参考有关国内外先进标准，并在广泛征

求意见的基础上，明确标准编制的框架和主要内容，按照团体标准的编制流程分别进行项目立项审查、大纲评审、编制《客车生命周期环境影响评价技术规范》征求意见稿、送审稿和报批稿，最终通过后进行发布实施。

（2）工作过程

在前期查阅大量资料的基础上，参编单位共同开展标准制定前期研究与制定准备工作。

2022 年 12 月 29 日，召开标准立项会，经过专家讨论和评审，立项通过，并充分征求了现场专家对标准的评审意见。

2023 年 1 月 8 日，召开第一次编写组内部会议，邀请参编单位进行讨论，对标准进行了充分修改。会后又继续和编写组内部分成员单位进行了充分的讨论，形成新的一版标准草稿；

2023 年 2 月 21 日，编写组对接参编企业，针对其生产的环境产品声明对标准进行了修改、补充完善。且会后依据标准编写规范将草稿中的语言、格式进行了调整；

2023 年 3 月 12 日，编写组邀请行业专家对标准架构进行审定，明确标准的主题架构和逻辑思路；

2023 年 4 月 20 日，编写组邀请参编企业、行业专家在既定架构的基础上，对标准内容进行逐条审查，形成当前稿件。

2023 年 5 月 6 日，召开了第二次编写组内部会议，会议根据近期专家意见进行草稿整体修改，调整草稿整体结构，修改标准语言，并对草稿中无关条款进行删除，形成了最新一版草稿；

二、制定标准的背景、意义及必要性

（一）背景

经济和科技的高速发展，一方面为人们生活带来便利的同时，另一方面也对自然环境造成了极大的危害。在当下的经济发展中，环境问题变得尤为突出如全球变暖、极端恶劣天气、废气污染等，都对人们的生活工作带来了影响。其中由于人类活动和工业生产所产生的大量温室气体排放是全球变暖的主要原因，而温室气体排放大部分由二氧化碳组成。面对如此严峻的生存环境，人类不得不进行反思，减少碳排放已经成为全球性迫切解决的问题之一。

为了解决和控制碳排放量，我国政府开始做出了一些努力。2015 年，国务院印发了《中国制造 2025》,以此作为引导我国制造业战略前进的长期纲领，它把绿色发展纳入其中作为目标之一，绿色制造工程也被列为五个重点工程之一；2016 年，紧接着发布了一个到 2020 年的规划，名字便是工业绿色发展，重点指出了工业的绿色转型；2017 年 4 月，工信部等联合印发了《汽车产业中长期发展规划》，将提高汽车节能减排水平作为规划目标之一，并在 2021 年 8 月、2022 年 3 月均指出要加快启动汽车碳排放系列的工作；2020 年，我国政府在联合国大会上向世界宣布了 2030 年前实现碳达峰、2060 年前实现碳中和的目标；2021 年，我国碳排放权交易市场正式运行，为推进企业减排提供市场机制，有效激励企业低碳创新发展，促进企业

高质量转型和绿色经济增长；2022 年，国家发展改革委、国家能源局发布《关于完善能源绿色低碳转型体制机制和政策措施的意见》：建立健全绿色能源消费促进机制，推进统一的绿色产品认证与标识体系建设，建立绿色能源消费认证机制，推动各类社会组织采信认证结果。

中国共产党第二十次全国代表大会于 2022 年 10 月 16 日召开，为全面贯彻党的二十大精神，认真落实中央经济工作会议部署，进一步完善市场导向的绿色技术创新体系，加快节能降碳先进技术研发和推广应用，充分发挥绿色技术对绿色低碳发展的关键支撑作用，近日，国家发展改革委、科技部联合印发了《关于进一步完善市场导向的绿色技术创新体系实施方案（2023—2025 年）》（发改环资〔2022〕1885 号，以下简称《实施方案》）。《实施方案》以习近平新时代中国特色社会主义思想为指导，强化企业创新主体地位，完善转化应用市场机制，加强创新服务保障，推动形成各类创新主体活力竞相迸发、产学研用衔接高效、创新效能持续提升的绿色技术创新工作格局，确定了 9 项重点任务，其中有一项是完善绿色技术评价体系，包括建立健全绿色技术标准、推进绿色技术评价等。

汽车产业既是国民经济的支柱产业，也是碳排放的大户。特别是重量大，排放多的客车产业，作为国民经济的支柱，具有较广的全产业链辐射范围和较高的社会带动作用，在推进生态文明建设的过程中面临诸多挑战。随着经济发展水平的稳步提升，人民生活水平的逐渐提高，汽车作为代步工具真正的走进了千家万户，巨大的需求牵引着

汽车产业高速发展。据中国汽车工业协会数据记录，2020 年，中国汽车销量达到 2521 万辆；2021 年，中国汽车销量达到 2608 万辆，同比增长了 3.9%；2022 年 1-11 月，中国汽车销量达到了 2430.2 万辆，同比增长了 3.3%。尽管近几年各行各业都受到了疫情不同程度上的影响与冲击，但汽车市场仍表现出良好的增长态势。在生态文明建设和绿色驱动发展的背景下，如何更好地“制定环境影响评价标准、营造绿色消费环境、建设绿色环境体系”成为汽车，特别是客车行业关注的焦点。

M2 和 M3 类客车有着重量大，排放多的特点，因为整个汽车产业的碳排放总量贡献较大，所以对于客车的全生命周期碳减排工作迫在眉睫。但是客车的全生命周期较长，涉及的产业链企业较多，要想精准的进行减碳工作，就要先核算客车全生命周期中的各个环节的碳排放量，针对碳排放量较大的环节进行减碳处理。但是目前国内尚未对 M2 和 M3 类客车的碳排放进行系统的生命周期综合研究评价，特别缺乏客车行业核算标准，这将成为众多客车企业碳减排工作上的绊脚石。

（二）意义

本标准的制定，可以满足 M2 和 M3 类客车生命周期环境影响评价的需要，可以系统地对不同类型的 M2 和 M3 类客车的产品环境影响排放评价进行规范，填补国内在该类产品碳足迹的标准空缺。

对于客车企业而言，制定一套《客车生命周期环境影响评价技术

规范》可以帮助企业全面了解M2和M3类客车的碳足迹，为企业进行碳足迹核算时提供参考标准，从而客车企业开展低碳产品设计开发决策，提供科学依据，帮助企业针对性的降碳。在全面掌握客车的碳足迹后，针对碳排放量突出环节，应用新技术、 新设计、新工艺等方式来改善碳排放量高的环节。

对于产业链而言，在碳达峰，碳中和的目标下，帮助客车企业应对国家关于碳中和的要求和排放标准，实现绿色发展，协同各企业降低整个产业链上的碳排放量，为社会可持续 发展贡献一份力量，定期达成“双碳”目标；同时有效应对国际绿色贸易壁垒，促进汽车产品出口。

（三）必要性

1.国际碳政策要求

①欧盟碳边境调节机制（CBAM），2022年6月22日，欧洲议会通过欧盟碳边境调整机制方案。CBAM对进口到欧盟的商品中隐含的碳排放量征收额外关税，即通过调节商品所含碳排放量在欧盟边境内外的定价差异，实现“碳平价”。欧盟此次碳关税机制调整，将于2023年1月1日开始并在未来4年内分阶段实施。到2023年，进口商将被要求报告其进口商品（包括钢铁、水泥、铝、化肥、有机化学品和塑料等产品）中所含的碳排放量（生产过程直接排放和外购能源间接排放），经过4年的缓冲过渡期后，将于2027年开始征收碳税。

②美国《清洁竞争法案》，2022年6月7日，美国参议员Shel

don Whitehouse 联合其他三位参议员 Chris Coons、Brian Schatz 和 Martin Heinrich 在国会上提出了一项基于窄幅边界调整的碳税立法，也就是美国版的碳边境调节机制（CBAM），该法案名为《清洁竞争法（Clean Competition Act，简称 CCA）》。《清洁竞争法》是 CBAM 的一种形式，旨在减少气候污染，同时通过新的激励措施加强美国清洁制造业的竞争力。与欧盟 CBAM 类似，CCA 对进口商品征收二氧化碳排放费用，并将收入提供给发展中国家。但由于美国没有统一的碳价，CCA 的独特之处在于：公司将只为超过行业平均水平的排放量支付碳费，征收的对象为不仅是进口商，还包括美国国内生产商。

③欧盟“Fit for 55”一揽子计划，2050 年实现“碳中和”是欧盟自主设定的有约束力的目标。为此，欧盟公布了全面的新立法“Fit for 55”，旨在 2030 年使温室气体净排放量比 1990 年至少减少 55%。

④《欧盟电池法规》，要求所有进入欧盟市场的电池，包括欧盟本土生产的电池都必须遵守电池新规，并决定从 2024 年 7 月 1 日开始，只有已建立碳足迹声明的可充电工业和电动汽车电池才能投放市场。新电池法作为欧盟绿色产品法规中提出要求最多、最为繁琐和最难满足的一个法规，既迎合了低碳、环保的全球趋势，也是欧盟在电池产业中争取有利地位的重要方略之一。

⑤同时更多的欧盟企业要求出口企业完成环境产品声明认证，全生命周期碳足迹计算等，如意大利，瑞典，丹麦，芬兰，荷兰，挪威等。

2.中国低碳战略发展的要求

①中共十八大、十九大的报告都强调了生态文明的理念，国家对环境美好的期愿不言而喻，其后也会加强此方面的建设与管控。二十大报告明确提出：积极稳妥推进碳达峰碳中和，立足我国能源资源禀赋，坚持先立后破，有计划分步骤实施碳达峰行动，深入推进能源革命，加强煤炭清洁高效利用，加快规划建设新型能源体系，积极参与应对气候变化全球治理。

②据中汽中心测算,汽车碳排放占我国交通领域碳排放80%以上，占全社会碳排放7.5%左右。由中国汽车工程学会牵头编制的《节能与新能源汽车技术路线图2.0》指出，我国汽车产业碳排放将于2028年左右先于国家碳减排承诺提前达峰，至2035年，碳排放总量较峰值下降20%以上。

③2022年01月21日，国家发展改革委等部门发布《促进绿色消费实施方案》：优化完善标准认证体系。进一步完善并强化绿色低碳产品和服务标准、认证、标识体系，加强与国际标准衔接，大力提升绿色标识产品和绿色服务市场认可度和质量效益。制定重点行业和产品温室气体排放标准，探索建立重点产品全生命周期碳足迹标准。

④2022年01月30日，国家发展改革委、国家能源局发布《关于完善能源绿色低碳转型体制机制和政策措施的意见》：建立健全绿色能源消费促进机制。推进统一的绿色产品认证与标识体系建设，建立绿色能源消费认证机制，推动各类社会组织采信认证结果。

⑤2022年7月7日，工信部、发改委和生态环境部等三部门联

合印发了《工业领域碳达峰实施方案》（以下简称“《实施方案》”），其中汽车产业责任大、任务重。《实施方案》明确指出：到 2030 年，当年新增新能源、清洁能源动力的交通工具比例达到 40%左右，乘用车和商用车新车二氧化碳排放强度分别比 2020 年下降 25%和 20%以上；要加大交通运输领域绿色低碳产品供给，大力推广节能与新能源汽车，强化整车集成技术创新，提高新能源汽车产业集中度。

3.国际同行的竞争

沃尔沃，戴姆勒，斯堪尼亚等国际客车品牌发布客车全生命周期环境影响及碳足迹相关报告，同时制定了一系列供应链管理的相关的措施。而国内客车企业在该领域尚有缺失，由此导致的 EPD 报告的缺失，将会对国产客车出口国际带来巨大的不便与阻碍，此外，也会失去绿色采购的机会。

4.统一的核算标准的缺失

目前全球范围内并没有成体系的汽车整车的产品碳足迹标准和规范，我国已发布 3 批共 24 个行业碳核算方法，但尚未覆盖汽车全产业链。目前关于产品碳足迹（CFP）的标准主要有：瑞典政府于 1991 年为了实现绿色采购发布了环境产品声明（Environmental Product Declaration）环境影响评价的平台，并推动了 ISO14025 环境产品声明的国际化的发展进程，使其成为一个普遍认可的评价标准，欧盟委员会 2013 年发布的产品环境足迹（Product Environmental Footprint，PEF）方法指南推动整体的环境影响评价的步伐。

虽然众多品牌都在环境足迹和碳足迹方面利用全生命周期的方

法学进行核查，但是由于功能单元，系统边界的不透明，使得计算的结果可比性非常差，迫切需要一个统一的标准规范化市场的核算体系。

我国汽车行业在碳排放方面近两年开展了相关的碳足迹工作，但是整体的环境排放核算体系建设方面存在诸多困难，汽车产业链条长，排放标准缺乏精准的基础数据支撑，且汽车产业从原材料到运营的覆盖面广，汽车行业环境影响排放标准建设难度较大。

本项目通过研究客车全生命周期环境足迹足迹方法学，制定客车生命周期环境影响评价技术规范，以填补国内对于客车领域碳排放标准的空缺。

三、标准编制原则和主要内容

（一）标准编制原则

本标准经中国交通运输协会批准立项，按照GB/T1.1-2020《标准化工作导则第1部分:标准化文件的结构和起草规则》的规定起草。文件起草组经广泛调查研究，认真总结实践经验，参考有关国内外先进标准，并在广泛征求意见的基础上，制定本文件，本文件的某些内容可能涉及专利，本文件的发布机构不承担识别这些专利的责任。

（二）主要技术内容与框架

前言

本文件按照GB/T 1.1—2020《标准化工作导则　第1部分：标

准化文件的结构和起草规则》的规定起草。

文件起草组经广泛调查研究，认真总结实践经验，参考有关国内外先进标准，并在广泛征求意见的基础上，制定本文件，本文件的某些内容可能涉及专利，本文件的发布机构不承担识别这些专利的责任。

本文件的主要技术内容是：1 范围；2 规范性引用文件；3 术语和定义；4 生命周期清单分析；5 生命周期影响评价；6 生命周期影响审核机构；7 生命周期影响评价报告要素；附录 A（资料性）推荐适用数据库列表；附录 B（资料性）客车产品生命周期评价过程表示例；附录 C（资料性）生命周期评价因子；附录 D（资料性）材料循环使用计算公式。

本文件由中国交通运输协会低碳与碳交易促进分会提出。

本文件由中国交通运输协会标准化技术委员会归口。

本文件起草单位：招商局检测车辆技术研究院有限公司、瑞典环境科学研究院有限公司北京代表处、中通客车股份有限公司、宇通客车股份有限公司、厦门金龙客车有限公司、北京福田欧辉新能源汽车有限公司、金龙联合汽车工业（苏州）有限公司、扬州亚星客车股份有限公司、比亚迪客车有限公司、安徽安凯汽车股份有限公司、中机科（北京）车辆检测工程研究院有限公司、交通运输部科学研究院、中公高远（北京）汽车检测技术有限公司、北京绿色交易所有限公司、长安大学、中国公路学会客车分会。

本文件主要起草人：樊海龙、姚娟娟、李沁原、俞宁、曾义超、

刘挺、赵永刚、周莉、刘卫星、徐敏、王瑞。

（一）范围

本文件规定了客车产品生命周期环境影响评价的生命周期清单分析、影响评价和报告要素。

本文件是客车产品类别规则，适用于M2、M3类客车（柴油、汽油、普通混合动力、插电式混合动力、纯电动、燃料电池、天然气以及其他替代燃料）开展生命周期环境影响评价。

（二）规范性引用文件

下列文件中的内容通过文中的规范性引用而构成本文件必不可少的条款。其中，注日期的引用文件，仅该日期对应的版本适用于本文件；不注日期的引用文件，其最新版本（包括所有的修改单）适用于本文件。

GB/T 15089-2001 机动车辆及挂车分类

GB/T 24020 环境管理 环境标志和声明 通用原则

GB/T 24025 环境标志和声明 III型环境声明 原则和程序

GB/T 24040 环境管理 生命周期评价 原则与框架

GB/T 24044 环境管理 生命周期评价 要求与指南

GB/T 3730.1-2001 汽车和挂车类型的术语和定义

（三）术语和定义

3.1 客车生命周期 bus life cycle

客车生命周期指从客车原材料生产到客车生命终末期。

3.2 客车产品种类 bus product category

M2 类客车指驾驶员座位在内座位数超过 9 个，且最大设计总重量不超过 5000kg 载客车辆。

M3 类客车指驾驶员座位在内座位数超过 9 个，且最大设计总重量超过 5000kg 载客车辆。

3.3 共生产品 co-products

同一单元过程或产品系统中产出的两种或两种以上的产品。

3.4 单元过程 Unit process

进行生命周期清单分析时为量化输入和输出数据而确定的最基本部分。

3.5 现场数据 field data

现场数据是通过直接测量或基于直接测量计算得到的企业产品系统内某个单元过程或活动的量化值。

3.6 背景数据 background data

从产品生命周期中通过直接测量以外来源获得的，满足精确度、完整性和代表性等数据质量要求的数据，商业数据库和免费数据库满足该数据质量要求。

3.7 替代数据 Proxy data

“现场数据”、“背景数据”之外的其他来源数据，如文献研究数据。

3.8 生命周期清单分析 life cycle inventory analysis (LCI)

生命周期评价中对所研究产品整个生命周期中输入和输出进行

汇编和量化的阶段。

3.9 生命周期影响评价 life cycle impact assessment(LCIA)

生命周期评价中理解和评价产品系统在产品整个生命周期中的潜在环境影响大小和重要性的阶段。

3.10 III 型环境声明 type III environmental declaration

提供基于预设参数的量化环境数据的环境声明,必要时包括附加环境信息。III 型环境声明也称为环境产品声明 （Environmental Product Declaration ），简称 EPD。

预设参数基于 GB/T 24040 系列标准，包括 GB/T 24040 和 GB/T 24044。

附加环境信息可以是定性，也可以是定量。

3.11 产品种类规则 product category rule(PCR)

对一个或多个产品种类进行III型环境声明所必须满足的一套具体的规则、要求和指南。

（四）生命周期清单分析

生命周期清单分析包括功能单位、系统边界、数据采集、生命周期清单因子、计算程序和生命周期清单计算方法。

4.1 功能单位

作为客车环境足迹量化的基准单位。功能单位是客车将 1 名乘客运送 1 公里，其中客车的载客量根据额定载客数量计算，客车的使用寿命根据 800000 公里计算。

4.2 系统边界

本文件界定的客车产品生命周期系统边界包括三个阶段：上游过程、核心过程、下游过程。如图 1 所示：

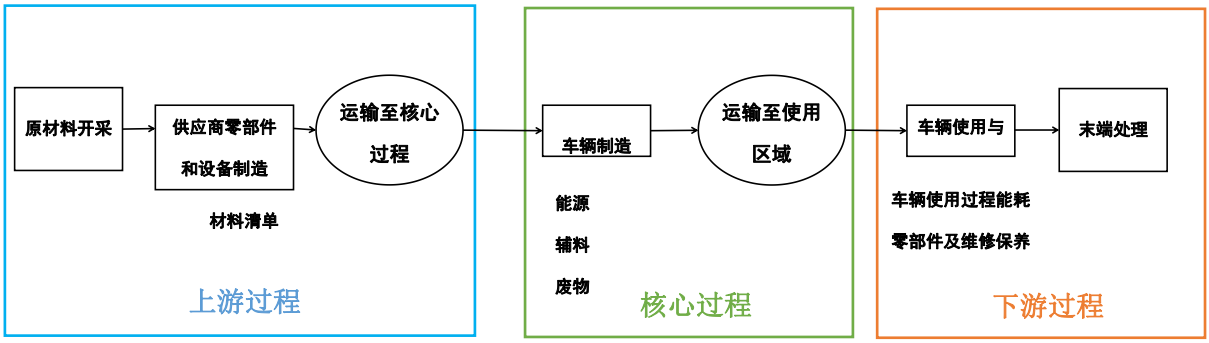

图 1 系统边界（客车）

4.2.1 上游过程

4.2.2 核心过程

4.2.3 下游过程

4.3 数据采集

4.3.1 数据的描述

数据包括企业现场数据、背景数据和替代数据。

4.3.2 数据取舍原则

4.3.3 数据质量要求

4.3.3.1 现场数据使用规则

4.3.3.2 背景数据使用规则

4.3.3.3 推荐适用数据库

4.3.3.4 生命周期各阶段数据质量要求

4.4 生命周期清单因子

4.5 评价模型几数据处理

4.5.1 数据确认

4.5.2 数据与单元过程的关联

4.5.3 数据与功能单位的关联

4.5.4 数据合并

4.5.5 数据分配

4.6 生命周期清单计算方法

（五）生命周期影响评价

5.1 影响类型

根据客车生产系统的特点，客车产品生命周期评价的影响类型应包括：

环境影响指标：气候变化相关/碳足迹、酸化潜力、平流层臭氧层的消耗潜力、富营养化潜能、光化学臭氧形成、化石资源的非生物消耗潜能、矿物和金属(非化石资源)的非生物消耗潜能、水资源消耗等 8 类环境影响指标；

能源指标：可再生一次能源（作为原材料的），可再生一次能源（非原材料部分），总的可再生一次能源，非可再生一次能源（作为原材料的），非可再生一次能源（非原材料部分），总的非可再生一次能源。二级材料的使用，二级可再生燃料使用，二级非可再生燃料使用；

生命周期废物指标：危险废物处置，非危险废物处置，辐射废物处置等；

产品和包装过程中生物碳指标。

以上指标详细因子信息见附录 C。

5.2 生命周期清单负荷因子归类

归类是根据清单负荷因子的物理化学性质，将对某影响类型（环境绩效指标）有贡献的因子归到一起的过程。根据客车生产系统的特点，重点考虑生命周期环境影响评价负荷因子，归入上述各影响类型。

5.3 分类评价

分类评价是定量计算影响类型的类型指标。同质量的不同负荷因子对同一种影响类型的贡献潜力不一样，转化为统一度量需要借助于特征化模型，分类评价结果采用当量物质表示。

5.4 附加环境信息

除上述报告的指标外，客车运行污染物排放、噪声排放量、可循环使用率和回收率应在附加环境信息中进行描述。

（六）生命周期影响审核机构

客车生命周期的评价应由第三方国家级车辆检验检测机构和全国性行业社团组织以及具备资质的国际第三方认证机构进行，并出具审核报告。

（七）生命周期影响评价报告要素

应用本文件可进行轴承产品的 III 型环境声明（EPD）报告，依据本文件制作的 III 型环境声明（EPD）报告包括以下内容：公司/组织的描述、产品或服务的描述、报告的有效期、产品的可追溯性（产品编号，能够辨识生产批次，追溯生产信息、质量记录等信息）、生命周期评价信息、评价的验证、可比性。

四、主要试验（或验证）分析

本次标准编写工作开展了调研工作，调研内容见研究报告。

五、预期经济效益与社会效益分析

本标准的制定，可以满足M2和M3类客车生命周期碳足迹核算的需要，可以系统地对不同类型的M2和M3类客车的产品碳足迹的排放评价进行规范，填补国内在该类产品碳足迹的标准空缺。

六、采用国际标准和国外先进标准的程度

1. PCR 2014:10 Fabricated steel products, except construction products, machinery and equipment
2. PCR 2015:03 Basic iron or steel products & special steels, except construction steel products
3. NPCR 013 Part B for steel and aluminium construction products (references to EN15804+A2)
4. NPCR 013 Part B for steel and aluminium construction products
5. PEFCR 2019-06-28 for Metal Sheets for Various Applications
6. PEP PCR-ed4-EN-2021 09 06 Product Category Rules for

Electrical, Electronic and HVAC-R Products 2009/33/EC

七、与现行有关法律、法规和强制性标准的关系

本标准与我国现行有关法律、法规和强制性国家标准不矛盾。

本标准是以现行国家层面相关法律法规、指导意见为基本遵循，编制过程中，充分考虑国内外现有相关标准的统一和协调。

八、标准中涉及知识产权情况说明

本标准中未涉及知识产权问题。

九、重大分歧意见的处理经过和依据

标准的编制过程中没有遇到重大的分歧意见。

十、标准性质的建议说明

本标准建议作为推荐性标准发布实施。

十一、贯彻标准的要求和实施措施

本标准为首次针对客车的生命周期环境影响评价技术规范的团体标准，并且为推荐性标准。标准正式发布后建议国内各个客车公司采用该团体标准对客车的生命周期环境影响进行评价。

十二、其他应予说明的事项

无

附件 1 企业征求意见处理工作情况

团体标准名称：客车生命周期环境影响评价技术规范

负责起草单位： 招商局检测车辆技术研究院有限公司、瑞典环境科学研究院有限公司北京代表处、中通客车股份有限公司、宇通客车股份有限公司、厦门金龙客车有限公司、北京福田欧辉新能源汽车有限公司、金龙联合汽车工业（苏州）有限公司、扬州亚星客车股份有限公司、比亚迪客车有限公司、安徽安凯汽车股份有限公司、中机科（北京）车辆检测工程研究院有限公司、交通运输部科学研究院、中公高远（北京）汽车检测技术有限公司、北京绿色交易所有限公司、长安大学、中国公路学会客车分会。

发送“征求意见稿”的单位数： 个；

收到“征求意见稿”后，回函的单位数： 个；

收到“征求意见稿”后，回函并提出意见的单位数： 个；

没有回函的单位数： 个。

序号	章条编号	提出单位（个人）	修改意见内容	理由或依据	意见处理
1					
2					
3					
4					
5					
6					
7					

附件 2 中国交通运输协会标准化技术委员会专家组审查意见及处理情况

序号	章条编号	意见提出方	修改意见内容	理由或依据	意见处理
1					
2					
3					
4					
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10					
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Contents

I *Legislative acts*

REGULATIONS

★ **Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060** 1

★ **Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism** [1] 52

★ **Regulation (EU) 2023/957 of the European Parliament and of the Council of 10 May 2023 amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types** [1] 105

DIRECTIVES

★ **Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure** [1] 115

★ **Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system** [1] 134

[1] Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2023/955 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 May 2023

establishing a Social Climate Fund and amending Regulation (EU) 2021/1060

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 91(1), point (d), Article 192(1) and Article 194(2), and Article 322(1), point (a), thereof,

Having regard to the proposal from the European Commission,

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

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

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

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

Whereas:

(1) The Paris Agreement ([4]), adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the 'Paris Agreement'), entered into force on 4 November 2016. The Parties to the Paris Agreement have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. That commitment has been reinforced with the adoption under the UNFCCC of the Glasgow Climate Pact on 13 November 2021, in which the Conference of the Parties to the UNFCC, serving as the meeting of the Parties to the Paris Agreement, recognises that the impacts of climate change will be much lower at a temperature increase of 1,5 °C, compared with 2 °C, and resolves to pursue efforts to limit the temperature increase to 1,5 °C.

(2) The communication of the Commission of 11 December 2019 on 'The European Green Deal' (the 'European Green Deal') sets out a new growth strategy that aims to transform the Union into a sustainable, fair and prosperous society, with a modern, resource-efficient and competitive economy, where there are no net emissions of greenhouse gases at the latest by 2050 and where economic growth is decoupled from resource use. The European Green Deal also aims to restore, protect, conserve and enhance the Union's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. Finally, it considers that this transition should be just and inclusive, leaving no one behind.

([1]) OJ C 152, 6.4.2022, p. 158.
([2]) OJ C 301, 5.8.2022, p. 70.
([3]) Position of the European Parliament of 18 April 2023 (not yet published in the Official Journal) and decision of the Council of 25 April 2023.
([4]) OJ L 282, 19.10.2016, p. 4.

(3) Through the adoption of Regulation (EU) 2021/1119 of the European Parliament and of the Council ([5]), the Union has enshrined in legislation the objective of economy-wide climate neutrality by 2050 at the latest, and the aim of achieving negative emissions thereafter. That Regulation also establishes a binding Union domestic reduction target for net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % compared to 1990 levels by 2030. All sectors of the economy are expected to contribute to achieving that target.

(4) The conclusions of the European Council of 10-11 December 2020 endorsed the binding Union domestic reduction target for net greenhouse gas emissions, while underlining the importance of considerations of fairness and solidarity and leaving no one behind. Those conclusions were reaffirmed in the conclusions of the European Council of 24-25 May 2021, when the European Council invited the Commission to swiftly put forward its legislative package together with an in-depth examination of the environmental, economic and social impact at Member State level.

(5) The European Pillar of Social Rights Action Plan, endorsed by the conclusions of the European Council of 24-25 June 2021, highlights the need to strengthen social rights and the European social dimension across all policies of the Union. Principle 20 of the European Pillar of Social Rights states that 'everyone has the right to access essential services of good quality, including water, sanitation, energy, transport, financial services and digital communications. Support for access to such services shall be available for those in need.'.

(6) The Porto Declaration of 8 May 2021 reaffirmed the European Council's pledge to work towards a social Europe strengthening a fair transition and its determination to continue deepening the implementation of the European Pillar of Social Rights at Union and national level, with due regard for respective competences and the principles of subsidiarity and proportionality.

(7) In order to implement the commitment towards climate neutrality, the Union's climate and energy legislation has been reviewed and amended in order to accelerate greenhouse gas emission reductions.

(8) Those amendments have differing economic and social impacts on the different sectors of the economy, citizens and Member States. In particular, the inclusion of greenhouse gas emissions from buildings, road transport and additional sectors which correspond to industrial activities not covered by Annex I to Directive 2003/87/EC of the European Parliament and of the Council ([6]) within the scope of that Directive should provide an additional economic incentive to invest in the reduction of fossil fuel consumption and thereby accelerate the reduction of greenhouse gas emissions. Combined with other measures, this should, in the medium to long term, contribute to the reduction of energy poverty and transport poverty, reduce the costs of buildings and road transport, and, where relevant, provide new opportunities for quality job creation and sustainable investments, fully aligned with the goals of the European Green Deal.

(9) However, resources are needed to finance those investments. In addition, before such investments are made, the cost supported by households and transport users for heating, cooling, cooking, and road transport, is likely to increase as fuel suppliers that are subject to the obligations under the emission trading system for buildings and road transport pass on the costs of carbon to consumers.

(10) The climate transition will have an economic and social impact that is difficult to assess *ex ante*. Achieving the increased climate ambition will require substantial public and private resources. Investments in energy efficiency measures, as well as renewable energy-based heating systems, such as heating with electric heat pumps, heating and cooling at district level and participation in renewable energy communities, are an effective method of reducing import dependency and emissions while increasing the Union's resilience. Dedicated funding to support vulnerable households, vulnerable micro-enterprises and vulnerable transport users is necessary.

([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).

([6]) 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, 25.10.2003, p. 32).

(11) The increase in the price for fossil fuels can disproportionally affect vulnerable households, vulnerable micro-enterprises and vulnerable transport users who spend a larger part of their income on energy and transport, who, in certain regions, do not have access to alternative, affordable mobility and transport solutions, and who may lack the financial capacity to invest in the reduction of fossil fuel consumption. Geographic specificities, such as islands, outermost regions and territories, rural or remote areas, less accessible peripheries, mountainous areas or areas that are lagging behind, can have specific impacts in the context of transport poverty on the vulnerability of households, micro-enterprises and transport users. Therefore, those geographic specificities should be taken into account when preparing measures and investments in support of vulnerable households, vulnerable micro-enterprises and vulnerable transport users, where applicable and relevant.

(12) A part of the revenues generated by the inclusion of buildings, road transport and additional sectors within the scope of Directive 2003/87/EC should be used to address the social impacts arising from that inclusion, in order for the transition to be just and inclusive, leaving no one behind. The overall amount of the Social Climate Fund established under this Regulation (the 'Fund') should reflect the level of decarbonisation ambition from the inclusion of greenhouse gas emissions from buildings, road transport and additional sectors within the scope of Directive 2003/87/EC.

(13) Using part of the revenues to address the social impacts arising from the inclusion of the buildings, road transport and additional sectors within the scope of Directive 2003/87/EC is even more relevant in view of the existing levels of energy poverty. Energy poverty is a situation in which households are unable to access essential energy services that underpin a decent standard of living and health, such as adequate warmth through heating, cooling, as temperatures rise, lighting, and energy to power appliances. In a 2021 Union-wide survey, approximately 34 million Europeans, nearly 6,9 % of the population of the Union, said that they could not afford to heat their home sufficiently. Energy poverty is therefore a major challenge for the Union. While social tariffs or temporary direct income support can provide immediate relief to households facing energy poverty in the short term, only targeted structural measures, in particular building renovations, including through access to energy from renewable sources and the active promotion of renewable energy sources through information and awareness-raising measures targeted at households, and building renovations that contribute to the objectives established in Directive 2010/31/EU of the European Parliament and of the Council ([7]) can provide lasting solutions and effectively help combat energy poverty. It should be possible for the definition of energy poverty under this Regulation to be updated to reflect the outcome of the negotiations on a Directive of the European Parliament and of the Council on energy efficiency (recast).

(14) A holistic approach to building renovations that takes into account in a more efficient way people at risk of exclusion, namely those who suffer most from energy poverty in the Union, could lead to less demand for energy. Therefore, the support under the Fund to the buildings sector should aim to improve energy efficiency, leading to a reduction in energy consumption for each household that would be visible in terms of the money saved and, as a result, would provide one means of combating energy poverty. The revision of Directive 2010/31/EU would lay the foundations for those objectives to be achieved and should therefore be taken into account when implementing this Regulation.

(15) Since transport poverty has not yet been defined at Union level, such a definition should be introduced for the purpose of this Regulation. Transport poverty could become an even more pressing issue, as recognised in the Council Recommendation of 16 June 2022 on ensuring a fair transition towards climate neutrality ([8]), and result in diminished access to essential socioeconomic activities and services such as employment, education or healthcare, in particular for vulnerable individuals and households. Transport poverty is usually caused by one or a combination of factors such as low income, high fuel expenditures, or a lack of affordable or accessible private or public transport. Transport poverty can particularly affect individuals and households in rural, insular, peripheral, mountainous, remote and less accessible areas or less developed regions or territories, including less developed peri-urban areas and the outermost regions.

([7]) Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).

([8]) OJ C 243, 27.6.2022, p. 35.

(16) The Fund should be established to provide funds to the Member States to support their policies to address the social impacts of the introduction of the emissions trading system for buildings and road transport on vulnerable households, vulnerable micro-enterprises and vulnerable transport users. This should be achieved in particular through temporary direct income support and measures and investments intended to reduce reliance on fossil fuels through increased energy efficiency of buildings, decarbonisation of heating and cooling of buildings, irrespective of who owns those buildings, including the integration of energy from renewable sources, and through granting improved access to zero- and low-emission mobility and transport to the benefit of vulnerable households, vulnerable micro-enterprises and vulnerable transport users. Attention needs to be paid to the different forms of rental housing, including those on the private rental market. Financial support or fiscal incentives, such as deductibility of renovation costs from the rent could be included among the measures in order to take account of tenants and people living in social housing.

(17) Each Member State should submit to the Commission a Social Climate Plan (the 'Plan'). The Plans should be submitted by 30 June 2025 so that they can be given careful and timely consideration. The Plans should have an investment component that promotes the long-term solution of reducing fossil fuels reliance and could envisage other measures, including temporary direct income support, to mitigate adverse effects on income in the shorter term. The Plans should pursue two objectives. First, they should provide vulnerable households, vulnerable micro-enterprises and vulnerable transport users with the necessary resources to finance and carry out investments in energy efficiency, decarbonisation of heating and cooling, in zero- and low-emission vehicles and mobility, including through vouchers, subsidies or zero-interest loans. Second, they should mitigate the impact of the increase in the cost of fossil fuels on the most vulnerable and thereby prevent energy poverty and transport poverty during the transitional period until such investments have been carried out. The Plans could support access to affordable energy-efficient housing, including social housing. When implementing measures in support of vulnerable transport users, it should be possible for Member States to prioritise support to zero-emission vehicles in their Plans, provided that it is an affordable and deployable solution.

(18) Member States, in consultation with local and regional authorities, economic and social partners and relevant civil society organisations, are best placed to design, implement and, where relevant, amend Plans that are adapted and targeted to their local, regional and national circumstances, their existing policies in the relevant areas and planned use of other relevant Union funds. A public consultation of stakeholders should take place every time the Commission is required to assess a Plan. In that manner, the broad diversity of situations, the specific knowledge of local and regional governments, economic and social partners, relevant civil society organisations, research and innovation institutions, industrial stakeholders and social dialogue representatives, as well as national circumstances can best be reflected and contribute to the effectiveness and efficiency of the overall support to the vulnerable.

(19) The Plans should be designed in close cooperation with the Commission and prepared in accordance with the template provided. In order to avoid excessive administrative burdens, it should be possible for Member States to make minor adjustments to or correct clerical errors in the Plans, by a simple notification of those changes to the Commission. Minor adjustments should represent an increase or decrease of less than 5 % of a target envisaged in the Plan.

(20) Ensuring that the measures and investments are particularly targeted towards households in energy poverty or vulnerable households, vulnerable micro-enterprises and vulnerable transport users is key for a just transition towards climate neutrality. Support measures to promote reductions in greenhouse gas emissions should help Member States to address the social impacts arising from the emissions trading in the buildings and road transport sectors.

(21) Pending the impact of those investments on reducing costs and emissions, well targeted direct income support for vulnerable households and vulnerable transport users would contribute to a reduction of energy and mobility costs and would support the just transition. Direct income support should be understood to be a temporary measure accompanying the decarbonisation of the housing and transport sectors. It would not be permanent as it does not address the root causes of energy poverty and transport poverty. Such support should only be used to address direct impacts of the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC, and should not be used to address electricity or heating costs related to the inclusion of power and heat production in the scope of that Directive. Eligibility for such direct income support should be limited in time. Recipients of direct income support should be targeted, as members of a general group of recipients, by measures and investments aimed at effectively lifting those recipients out of energy poverty and

transport poverty. The Plans should therefore include direct income support provided that they also contain measures or investments with lasting impacts targeted at the vulnerable households and vulnerable transport users who receive direct income support.

(22) Member States should raise awareness among vulnerable households, vulnerable micro-enterprises and vulnerable transport users by providing targeted, accessible and affordable information, education and advice on cost-effective measures and investments, and available support, including through energy audits of buildings, as well as tailored energy consultations or tailored mobility management services.

(23) Taking into account the importance of tackling climate change in accordance with the Paris Agreement commitments, and the commitment to the United Nations Sustainable Development Goals, the measures and investments under this Regulation are intended to be in line with the target that at least 30 % of the total amount of the Union budget under the multiannual financial framework for the years 2021 to 2027 laid down in Council Regulation (EU, Euratom) 2020/2093 ([9]) (the 'MFF 2021-2027') and of the total amount of the European Union Recovery Instrument, established by Council Regulation (EU) 2020/2094 ([10]), and at least 37 % of the total amount of the Recovery and Resilience Facility, established by Regulation (EU) 2021/241 of the European Parliament and of the Council ([11]), should be spent on mainstreaming climate objectives. The measures and investments under this Regulation are also intended to be in line with the ambition of providing 7,5 % of annual spending under the MFF 2021-2027 to biodiversity objectives in 2024 and 10 % of annual spending under MFF 2021-2027 to biodiversity objectives in 2026 and 2027, while considering the existing overlaps between climate and biodiversity goals.

For that purpose, the methodology set out in Annex I to Regulation (EU) 2021/1060 of the European Parliament and of the Council ([12]) should be used to track the expenditures of the Fund. The Fund should support measures and investments that fully respect climate and environmental standards and priorities of the Union and comply with the principle of 'do no significant harm' within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council ([13]). Only such measures and investments should be included in the Plans. Direct income support measures should, as a rule, be considered as having an insignificant foreseeable impact on environmental objectives and, as such, should be considered to be compliant with the principle of 'do no significant harm'. The Commission should issue technical guidance to the Member States well ahead of the preparation of the Plans. The guidance should explain how the measures and investments are to comply with the principle of 'do no significant harm'.

(24) Women are disproportionately affected by energy poverty and transport poverty, in particular single mothers, who represent 85 % of single parent families, as well as single women, women with disabilities, and elderly women living alone. In addition, women have different and more complex mobility patterns. Single parent families with dependent children have a particularly high risk of child poverty. Gender equality and equal opportunities for all, and the mainstreaming of those objectives, as well as accessibility rights of persons with disabilities should be upheld and promoted throughout the preparation and implementation of Plans to ensure that no one is left behind.

(25) Active customers, citizen energy communities and peer-to-peer trading of renewable energy can help Member States achieve the objectives of this Regulation through a bottom-up approach initiated by citizens. They empower and engage consumers and enable certain groups of household customers to participate in energy efficiency measures and investments, support the use of renewable energy of households and at the same time contribute to fighting energy poverty. Member States should therefore promote the role of citizen energy communities and renewable energy communities and regard them as eligible beneficiaries of the Fund.

([9]) Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

([10]) Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23).

([11]) Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

([12]) Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

([13]) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

(26) Member States should include in the Plans the measures and investments to be financed, the estimated costs of those measures and investments, and the national contribution. When submitting their Plans, Member States should present the estimated total costs excluding the value added tax (VAT) to enable comparability between the Plans. The Plans should also include key milestones and targets so that the effective implementation of the measures and investments can be assessed.

(27) The Fund and the Plans should be coherent with and framed by the reforms planned and the commitments made by the Member States under their updated integrated national energy and climate plans in accordance with Regulation (EU) 2018/1999 of the European Parliament and of the Council ([14]), under Directive of the European Parliament and the Council on energy efficiency (recast), under the European Pillar of Social Rights Action Plan, under cohesion policy programmes in accordance with Regulation (EU) 2021/1060, under territorial just transition plans in accordance with Regulation (EU) 2021/1056 of the European Parliament and of the Council ([15]), under recovery and resilience plans in accordance with Regulation (EU) 2021/241, under the Modernisation Fund, as set out in Article 10d of Directive 2003/87/EC, and under the Member States' long-term building renovation strategies in accordance with Directive 2010/31/EU. To ensure administrative efficiency, where applicable, the information included in the Plans should be consistent with those legislative acts and plans.

(28) For more efficient planning, Member States should indicate in their Plans the consequences of postponing the emission trading system established in accordance with Chapter IVa of Directive 2003/87/EC, pursuant to Article 30k of that Directive. To that end, all the relevant information to be included in the Plan should be thoroughly distinguished by separating it into two scenarios, namely, by describing and quantifying the necessary adjustments to the measures, investments, milestones, targets, the amount of national contribution and any other relevant element of the Plan.

(29) The Union should support Member States with financial means to implement their Plans through the Fund. Payments from the Fund should be made conditional upon the achievement of the milestones and targets included in the Plans. This would enable national circumstances and priorities to be taken into account, while simplifying financing and facilitating the integration of financing under the Fund with other national spending programmes and while guaranteeing the impact and the integrity of Union spending.

(30) The Fund should be exceptionally and temporarily financed by the revenue generated from the auctioning of 50 million allowances pursuant to Article 10a(8b) of Directive 2003/87/EC, 150 million allowances pursuant to Article 30d(3) of that Directive and a volume of additional allowances pursuant to Article 30d(4) of that Directive, which should constitute external assigned revenue. In principle, a maximum amount of EUR 65 000 000 000 should be made available for the implementation of the Fund for the period 2026-2032. The Commission is to ensure the auctioning of allowances covered by Chapter IVa of that Directive. Where the emission trading system established in accordance with that Chapter is postponed until 2028 pursuant to Article 30k of that Directive, the maximum amount available for the implementation of the Fund should be EUR 54 600 000 000. That amount and the annual amounts reflect a greater need of financing at the start of the Fund. The maximum financial allocation should be calculated for each Member State in accordance with an allocation methodology providing, in particular, additional support to those Member States that are more impacted by the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC. Considering that the external assigned revenue is to be made available following the auctioning of allowances pursuant to Articles 10a(8b), 30d(3) and 30d(4) of Directive 2003/87/EC, it is necessary to provide for a derogation from Article 22(2) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([16]) to enable the Union to commit each year the amounts necessary for the payments to Member States to be made in accordance with this Regulation for the accommodation of appropriations corresponding to assigned revenue.

([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]) Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1).

([16]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(31) Member States should contribute at least 25 % of the estimated total costs of their Plans.

(32) The budgetary commitments should be able to be broken down into annual instalments, where appropriate. The agreements with Member States constituting individual legal commitments should take into account, inter alia, the event referred to in Article 30k of Directive 2003/87/EC which could trigger a one year delay of the start of emissions trading for buildings, road transport and additional sectors. Those agreements should also take into account any potential financial risks for the Union, which might require an amendment of the individual legal commitments, due to the specificities of the temporary and exceptional financing of the Fund by external assigned revenue generated from allowances of the emission trading system.

(33) In order to ensure additional resources for the Fund, the Member States should be able to request a transfer of resources to the Fund from the cohesion policy programmes under shared management, established by Regulation (EU) 2021/1060, subject to the conditions set out in that Regulation. In order to provide Member States with sufficient flexibility in the implementation of their allocations under the Fund, it should be possible to transfer resources from their annual financial allocation to funds under shared management provided for in Regulation (EU) 2021/1060, up to a ceiling of 15 %. With a view to alleviating the administrative burden resulting from successive transfers of resources from their annual financial allocation from the Fund to funds under shared management falling within the scope of Regulation (EU) 2021/1060, the corresponding amendment of one or more programmes should, in principle, be required only once, subject to certain conditions to ensure effective financial control. It should be possible to effect further transfers in subsequent years by notifying the financial tables to the Commission, provided that the changes relate exclusively to an increase in the financial resources, without any further changes to the programme concerned.

(34) The Fund should support measures that respect the principle of additionality of Union funding. The Fund should not be a substitute for recurring national expenditure, except in duly justified cases, including for payments of costs for technical assistance actions indicated in the Plans.

(35) In order to ensure the efficient, transparent and coherent allocation of funds, and to respect the principle of sound financial management, actions under this Regulation should be consistent with and be complementary to ongoing Union, national and, where appropriate, regional programmes, whilst avoiding double funding from the Fund and other Union programmes for the same expenditure. In particular, the Commission and Member States should ensure effective coordination, at all stages of the process, in order to safeguard the consistency, coherence, complementarity and synergy among sources of funding. To that effect, Member States should be required to present the relevant information on existing or planned Union financing when submitting their Plans to the Commission. Financial support under the Fund should be additional to the support provided under other Union programmes and instruments. Measures and investments financed under the Fund should be able to receive funding from other Union programmes and instruments provided that such support does not cover the same costs.

(36) Payments should be made on the basis of a Commission decision authorising the disbursement to the Member State concerned. It is therefore necessary to derogate from Article 116(2) of Regulation (EU, Euratom) 2018/1046, so that the payment deadline can start running from the date of the communication from the Commission to the Member State concerned of that decision and not from the date on which a payment request is received.

(37) After the analysis of all the payment requests received in a given round, and if revenues assigned to the Fund in accordance with Article 30d(4) of Directive 2003/87/EC are not sufficient to cover the payment requests submitted by the Member States, the Commission should pay the Member States on a pro rata basis in order to provide for an equal treatment of Member States. In the following round of payment requests, the Commission should give priority to those Member States with delayed payments from the previous round of payment requests, and only afterwards pay the newly submitted payment requests.

(38) In order to facilitate the preparation of the Plans and to ensure transparent rules for monitoring and evaluation, the list of common indicators and the template for the Plans should be included in the Annexes to this Regulation. It should be possible for the Member States to use relevant common indicators to set out the milestones and targets in their Plans. The list of common indicators should contain the common indicators for reporting on the progress and for the purpose of monitoring and evaluation of the implementation of the Plans and of the Fund.

(39) The Fund should be implemented in line with the principle of sound financial management, including the effective prevention and prosecution of fraud, tax fraud, tax evasion, corruption and conflicts of interests. The Fund is subject to a general regime of conditionality for the protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States established by Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council ([17]).

(40) For the purpose of sound financial management, while respecting the performance-based nature of the Fund, specific rules should be laid down for budget commitments, payments, suspension, and the recovery of funds as well as for the termination of agreements related to financial support. The Member States should take appropriate measures to ensure that the use of funds in relation to measures supported by the Fund complies with applicable Union and national law. Member States should ensure that such support is granted in compliance with the Union State aid rules, where applicable. In particular, they should ensure that fraud, corruption and conflicts of interests are prevented, detected and corrected, and that double funding from the Fund and other Union programmes is avoided. Suspension and the termination of agreements related to financial support, as well as reduction and recovery of the financial allocation, should be possible when the Plan has not been implemented in a satisfactory manner by the Member State concerned or in the case of serious irregularities, namely fraud, corruption and conflicts of interests in relation to the measures supported by the Fund or a serious breach of an obligation under the agreements related to financial support. In the case of the termination of an agreement related to financial support or the reduction and recovery of a financial allocation, those amounts should be allocated to Member States by 31 December 2033 according to the rules for distribution of allowances set out in Article 30d(5) of Directive 2003/87/EC. Appropriate contradictory procedures should be established to ensure that the decisions of the Commission in relation to suspension and recovery of amounts paid or the termination of agreements related to financial support respect the right of Member States to submit observations.

(41) The Commission should ensure that the financial interests of the Union are protected effectively. While it is primarily the responsibility of the Member State itself to ensure that the Fund is implemented in compliance with relevant Union and national law, the Commission should be able to receive sufficient assurance from Member States in that regard. To that end, in implementing the Fund, Member States should ensure the functioning of an effective and efficient internal control system and should recover amounts unduly paid or misused. In that regard, Member States should be able to rely on their regular national budget management systems. Member States should collect, record and store in an electronic system, standardised categories of data and information allowing the prevention, detection and correction of serious irregularities in relation to the measures and investments supported by the Fund, namely fraud, corruption and conflicts of interests. The Commission should make available an information and monitoring system, including a single data-mining and risk-scoring tool, to access and analyse that data and information. The Commission should encourage the use of that information and monitoring system with a view to a generalised application by Member States.

(42) The Commission, the European Anti-Fraud Office (OLAF), the Court of Auditors and, where applicable, the European Public Prosecutor's Office (EPPO) should be able to use the information and monitoring system within their competences and rights.

(43) The Member States and the Commission should be allowed to process personal data only where necessary for the purpose of ensuring discharge, audit and control, information, communication and visibility of the use of funds in relation to measures for the implementation under the Fund. Personal data should be processed in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ([18]) or Regulation (EU) 2018/1725 of the European Parliament and of the Council ([19]), whichever is applicable.

([17]) Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433 I, 22.12.2020, p. 1).

([18]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

([19]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

(44) In accordance with Regulation (EU, Euratom) 2018/1046, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([20]), and Council Regulations (EC, Euratom) No 2988/95 ([21]), (Euratom, EC) No 2185/96 ([22]) and (EU) 2017/1939 ([23]), the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of fraud, corruption and conflicts of interests, and, where appropriate, the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, OLAF has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption, conflicts of interests or any other illegal activity affecting the financial interests of the Union.

EPPO is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute fraud, corruption, conflicts of interests and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council ([24]). In accordance with Regulation (EU, Euratom) 2018/1046, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation, EPPO pursuant to Regulation (EU) 2017/1939, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

(45) Horizontal financial rules adopted by the European Parliament and by the Council pursuant to Article 322 of the Treaty on the Functioning of the European Union (TFEU) apply to this Regulation. Those rules are laid down in Regulation (EU, Euratom) 2018/1046 and determine in particular the procedure for establishing and implementing the Union budget through grants, procurement, prizes and indirect management, and provide for checks on the responsibility of financial actors. Rules adopted pursuant to Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.

(46) Regulation (EU) 2021/1060 should be amended accordingly.

(47) Since the objective of this Regulation, namely to contribute to a socially fair transition towards climate neutrality by addressing the social impacts of the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC, 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 that objective,

([20]) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

([21]) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

([22]) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

([23]) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

([24]) Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Subject matter and scope

This Regulation establishes the Social Climate Fund (the 'Fund') for the period from 2026 to 2032.

The Fund shall provide financial support to Member States for the measures and investments included in their Social Climate Plans (the 'Plans').

The measures and investments supported by the Fund shall benefit households, micro-enterprises and transport users, which are vulnerable and particularly affected by the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC, in particular households in energy poverty or households in transport poverty.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'energy poverty' means a household's lack of access to essential energy services that underpin a decent standard of living and health, including adequate warmth, cooling, lighting, and energy to power appliances, in the relevant national context, existing social policy and other relevant policies;

(2) 'transport poverty' means individuals' and households' inability or difficulty to meet the costs of private or public transport, or their lack of or limited access to transport needed for their access to essential socioeconomic services and activities, taking into account the national and spatial context;

(3) 'estimated total costs of the Plan' means the estimated total costs of the measures and investments included in the Plan;

(4) 'financial allocation' means non-repayable financial support under the Fund that is available for allocation, or that has been allocated, to a Member State;

(5) 'milestone' means a qualitative achievement used to measure progress towards the achievement of a measure or an investment;

(6) 'target' means a quantitative achievement used to measure progress towards the achievement of a measure or investment;

(7) 'energy from renewable sources' or 'renewable energy' means energy from renewable sources as defined in Article 2, second subparagraph, point (1), of Directive (EU) 2018/2001 of the European Parliament and of the Council ([25]);

(8) 'household' means a private household as defined in Article 2, point (15), of Regulation (EU) 2019/1700 of the European Parliament and of the Council ([26]);

([25]) 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).

([26]) Regulation (EU) 2019/1700 of the European Parliament and of the Council of 10 October 2019 establishing a common framework for European statistics relating to persons and households, based on data at individual level collected from samples, amending Regulations (EC) No 808/2004, (EC) No 452/2008 and (EC) No 1338/2008 of the European Parliament and of the Council, and repealing Regulation (EC) No 1177/2003 of the European Parliament and of the Council and Council Regulation (EC) No 577/98 (OJ L 261 I, 14.10.2019, p. 1).

(9) 'micro-enterprise' means an enterprise that employs fewer than 10 persons and whose annual turnover or annual balance sheet does not exceed EUR 2 million, calculated in accordance with Articles 3 to 6 of Annex I to Commission Regulation (EU) No 651/2014 ([27]);

(10) 'vulnerable households' means households in energy poverty or households, including low income and lower middle-income ones, that are significantly affected by the price impacts of the inclusion of greenhouse gas emissions from buildings within the scope of Directive 2003/87/EC and lack the means to renovate the building they occupy;

(11) 'vulnerable micro-enterprises' means micro-enterprises that are significantly affected by the price impacts of the inclusion of greenhouse gas emissions from buildings or road transport within the scope of Directive 2003/87/EC and that, for the purpose of their activity, lack the means either to renovate the building they occupy, or to purchase zero- and low-emission vehicles or to switch to alternative sustainable modes of transport, including public transport, as relevant;

(12) 'vulnerable transport users' means individuals and households in transport poverty, but also individuals and households, including low income and lower middle-income ones, that are significantly affected by the price impacts of the inclusion of greenhouse gas emissions from road transport within the scope of Directive 2003/87/EC and lack the means to purchase zero- and low-emission vehicles or to switch to alternative sustainable modes of transport, including public transport;

(13) 'building renovation' means any kind of energy-related building renovation, which has the aim of increasing the energy performance of buildings, such as the insulation of the building envelope, that is to say the walls, roof, floor and the replacement of windows, and the installation of technical building systems, compliant with any relevant national safety standards, including by contributing to the renovation requirements established in the Directive of the European Parliament and of the Council on the energy performance of buildings (recast);

(14) 'technical building system' means the technical equipment for space heating, space cooling, ventilation, domestic hot water, building automation and control, on-site renewable energy generation and storage, or a combination of such technical equipment, including those systems using energy from renewable sources, of a building or building unit;

(15) 'active customer' means an active customer as defined in Article 2, point (8), of Directive (EU) 2019/944 of the European Parliament and of the Council ([28]);

(16) 'citizen energy community' means a citizen energy community as defined in Article 2, point (11), of Directive (EU) 2019/944;

(17) 'renewable energy community' means a renewable energy community as defined in Article 2, point (16), of Directive (EU) 2018/2001;

(18) 'peer-to-peer trading of renewable energy' means peer-to-peer trading of renewable energy as defined in Article 2, point (18), of Directive (EU) 2018/2001;

(19) 'zero- and low-emission vehicle' means zero- and low- emission vehicle as defined in Article 3(1), point (m), of Regulation (EU) 2019/631 of the European Parliament and of the Council ([29]).

Article 3

Objectives

1. The general objective of the Fund shall be to contribute to a socially fair transition towards climate neutrality by addressing the social impacts of the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC.

([27]) Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

([28]) Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

([29]) Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO_2 emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 (OJ L 111, 25.4.2019, p. 13).

2. The specific objectives of the Fund shall be to support vulnerable households, vulnerable micro-enterprises and vulnerable transport users, through temporary direct income support and through measures and investments intended to increase the energy efficiency of buildings, decarbonisation of heating and cooling of buildings, including through the integration in buildings of renewable energy generation and storage, and to grant improved access to zero- and low-emission mobility and transport.

CHAPTER II

Social Climate Plans

Article 4

Social Climate Plans

1. Each Member State shall submit to the Commission its Plan. The Plan shall contain a coherent set of existing or new national measures and investments to address the impact of carbon pricing on vulnerable households, vulnerable micro-enterprises and vulnerable transport users in order to ensure affordable heating, cooling and mobility, while accompanying and accelerating necessary measures to meet the climate targets of the Union.

2. Each Member State shall ensure consistency between its Plan and its updated integrated national energy and climate plan referred to in Article 14(2) of Regulation (EU) 2018/1999.

3. The Plan may include national measures providing temporary direct income support to vulnerable households and vulnerable transport users to reduce the impact of the increase in the price of fossil fuels resulting from the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC.

4. The Plan shall include national and, where relevant, local and regional measures and investments, in accordance with Article 8, to:

(a) carry out building renovation, and decarbonise heating and cooling of buildings, including the integration of renewable energy generation and storage;

(b) increase the uptake of zero- and low-emission mobility and transport.

5. Where a Member State has already in place a national emission trading system for buildings and road transport or carbon tax, the national measures already in place to mitigate social impacts and challenges may be included in the Plan provided that they comply with this Regulation.

Article 5

Public consultation

1. Each Member State shall submit a Plan to the Commission following a public consultation with local and regional authorities, representatives of economic and social partners, relevant civil society organisations, youth organisations and other stakeholders. Each Member State shall conduct that consultation in accordance with the requirements of Article 10 of Regulation (EU) 2018/1999 and in compliance with that Member State's national legal framework.

2. Each Member State shall include in its Plan a summary of:

(a) the consultation held pursuant to paragraph 1; and

(b) how the input of the stakeholders who participated in the consultation is reflected in the Plan.

3. For the purposes of Article 16(3), the Commission shall assess whether the Plan has been developed in consultation with stakeholders in accordance with paragraph 1 of this Article.

4. The Commission shall support Member States by providing examples of good practices of consultations on the Plans in accordance with Article 6(4).

Article 6

Content of Social Climate Plans

1. The Plan shall set out the following elements:

(a) concrete measures and investments in accordance with Articles 4 and 8 to reduce the effects referred to in point (d) of this paragraph, together with an explanation of how those measures and investments would contribute effectively to the achievement of the objectives set out in Article 3 within the overall setting of a Member State's relevant policies;

(b) where relevant, concrete, mutually coherent and reinforced accompanying measures to accomplish the measures and investments and reduce the effects referred to in point (d);

(c) information on existing or planned financing of measures and investments from other Union, international, public or, where relevant, private sources which contribute to the measures and investments set out in the Plan, including information on temporary direct income support;

(d) an estimate of the likely effects of the increase in prices resulting from the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC on households, in particular on incidence of energy poverty and transport poverty, and on micro-enterprises; those effects are to be analysed at the appropriate territorial level as defined by each Member State, taking into account national specificities and elements, such as access to public transport and basic services, and identifying the areas mostly affected;

(e) an estimated number of, and the identification of, vulnerable households, vulnerable micro-enterprises and vulnerable transport users;

(f) an explanation of how the definitions of energy poverty and transport poverty are to be applied at national level;

(g) where the Plan provides for measures as referred to in Article 4(3), the criteria for the identification of eligible final recipients, the envisaged time limit for the measures in question and their justification on the basis of a quantitative estimate and a qualitative explanation of how those measures are expected to reduce energy poverty, transport poverty and the vulnerability of households to an increase in the price of road transport and heating fuel;

(h) envisaged milestones, targets and an indicative comprehensive timetable for the implementation of the measures and investments to be completed by 31 July 2032;

(i) where applicable, a timetable for the gradual reduction of support for low-emission vehicles;

(j) the estimated total costs of the Plan, accompanied by appropriate justification and explanations of how they are in line with the principle of cost efficiency and commensurate to the expected impact of the Plan;

(k) the envisaged national contribution to the estimated total costs of the Plan, calculated in accordance with Article 15;

(l) except for the measures referred to in Article 4(3) of this Regulation, an explanation of how the Plan ensures that none of the measures or investments would do significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852;

(m) the arrangements for the effective monitoring and implementation of the Plan by the Member State concerned, in particular of the proposed milestones and targets, the relevant common indicators referred to in Annex IV, and if none of those indicators are relevant for a specific measure or investment, additional individual indicators proposed by the Member State concerned;

(n) for the preparation and, where available, for the implementation of the Plan, a summary of the public consultation process referred to in Article 5;

(o) an explanation of the Member State's system to prevent, detect and correct fraud, corruption and conflicts of interests when using the financial allocation provided under the Fund, and of the arrangements that aim to avoid double funding from the Fund and other Union programmes;

(p) where applicable and relevant, an explanation of how geographic specificities, such as islands, outermost regions and territories, rural or remote areas, less accessible peripheries, mountainous areas or areas lagging behind, have been taken into account in the Plan;

(q) where relevant, an explanation of how the measures and investments aim to address gender inequality.

2. The Plan may include technical assistance actions necessary for the effective administration and implementation of the measures and investments.

3. The Plan shall be consistent with the information included in and the commitments made by the Member State under the following:

(a) the European Pillar of Social Rights Action Plan;

(b) its cohesion policy programmes under Regulation (EU) 2021/1060;

(c) its recovery and resilience plan under Regulation (EU) 2021/241;

(d) its building renovation plan under the Directive of the European Parliament and of the Council on the energy performance of buildings (recast);

(e) its updated integrated national energy and climate plan under Regulation (EU) 2018/1999; and

(f) its territorial just transition plans under Regulation (EU) 2021/1056.

4. During the preparation of the Plans, the Commission shall organise an exchange of good practices, including on cost-effective measures and investments to be included in the Plans. Member States may request technical support under the European Local ENergy Assistance (ELENA) facility, established by an Agreement between the Commission and the European Investment Bank in 2009, or under the Technical Support Instrument established by Regulation (EU) 2021/240 of the European Parliament and of the Council ([30]).

5. For the purposes of paragraph 1, point (l), of this Article, the Commission shall provide technical guidance to the Member States, tailored to the scope of the Fund, on the compliance of measures and investments with the principle of 'do no significant harm' within the meaning of Article 17 of Regulation (EU) 2020/852.

6. To assist Member States in providing the information referred to in paragraph 1, point (d), of this Article the Commission shall provide a common value to be considered as an estimate for the carbon price resulting from the inclusion of greenhouse gas emissions from buildings, road transport and additional sectors within the scope of Directive 2003/87/EC.

7. Each Member State shall use the template set out in Annex V for the Plan.

CHAPTER III

Support from the fund for Social Climate Plans

Article 7

Principles governing the Fund

1. The Fund shall provide financial support to Member States to fund the measures and investments set out in their Plans.

([30]) Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).

2. Payment of financial support pursuant to paragraph 1 of this Article to each Member State shall be conditional upon that Member State achieving the milestones and targets for the measures and investments in accordance with Article 8 of this Regulation. Those milestones and targets shall be compatible with the Union's climate targets and the objective set out in Regulation (EU) 2021/1119, and shall cover in particular:

(a) energy efficiency;

(b) building renovation;

(c) zero- and low-emission mobility and transport;

(d) greenhouse gas emission reductions;

(e) reductions in the number of vulnerable households, in particular households in energy poverty, of vulnerable micro-enterprises and of vulnerable transport users.

3. The Fund shall only support measures and investments which comply with the principle of 'do no significant harm' within the meaning of Article 17 of Regulation (EU) 2020/852.

4. The measures and investments supported by the Fund shall reduce fossil fuel dependency and, where relevant, contribute to the implementation of the European Pillar of Social Rights as well as to sustainable and quality jobs in the fields covered by the measures and investments of the Fund.

Article 8

Eligible measures and investments to be included in the Social Climate Plans

1. The Member State may include in the estimated total costs of the Plan the following measures and investments with lasting impacts, provided they principally target vulnerable households, vulnerable micro-enterprises or vulnerable transport users and intend to:

(a) support building renovations, in particular for vulnerable households and vulnerable micro-enterprises occupying the worst performing buildings, and including for tenants and people living in social housing;

(b) support access to affordable energy-efficient housing, including social housing;

(c) contribute to the decarbonisation, such as through electrification, of heating and cooling of, and cooking in, buildings by providing access to affordable and energy-efficient systems, and by integrating renewable energy generation and storage, including through renewable energy communities, citizen energy communities and other active customers to promote the uptake of the self-consumption of renewable energy, such as energy sharing and peer-to-peer trading of renewable energy, connection to smart grids and to district heating networks, that contributes to achieving energy savings or to reducing energy poverty;

(d) provide targeted, accessible and affordable information, education, awareness and advice on cost-effective measures and investments, available support for building renovations and energy efficiency, as well as sustainable and affordable mobility and transport alternatives;

(e) support public and private entities, including social housing providers, in particular public-private cooperatives, in developing and providing affordable energy efficiency solutions and appropriate funding instruments in line with the social goals of the Fund;

(f) provide access to zero- and low-emission vehicles and bicycles, while maintaining technological neutrality, including financial support or fiscal incentives for their purchase as well as for appropriate public and private infrastructure, in particular, where relevant, purchase of zero- and low-emission vehicles, infrastructure for recharging and refuelling and development of a second-hand zero-emission vehicles market; Member States shall aim to ensure that where zero-emission vehicles are an affordable and deployable solution, support to such vehicles is prioritised in their Plans;

(g) incentivise the use of affordable and accessible public transport and support private and public entities, including cooperatives, in developing and providing sustainable mobility on demand, shared mobility services and active mobility options.

2. Member States may include in the estimated total costs of the Plans the costs of measures providing direct income support to vulnerable households and vulnerable transport users to reduce the impact of the increase in road transport and heating fuel prices. Such support shall be temporary and decrease over time. Member States may provide temporary direct income support if their Plans contain measures or investments aimed at those vulnerable households and vulnerable transport users in accordance with Article 8(1) of this Regulation. Such support shall be limited to the direct impact of the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC. The costs of measures providing temporary direct income support shall not represent more than 37,5 % of the estimated total costs of the Plan, as referred to in Article 6(1), point (j), of this Regulation.

3. Member States may include in the estimated total costs of the Plans the costs of technical assistance to cover expenses related to training, programming, monitoring, control, audit and evaluation activities which are required for the management of the Fund and the achievement of its objectives, for example studies, information technology (IT) expenses, public consultation of stakeholders, information and communication actions. The costs of such technical assistance shall be up to 2,5 % of the estimated total costs of the Plan, as referred to in Article 6(1), point (j).

Article 9

Pass-on of benefits to households, micro-enterprises and transport users

1. Member States may include in the Plans support provided through public or private entities other than vulnerable households, vulnerable micro-enterprises and vulnerable transport users, provided that those entities carry out measures and investments ultimately benefitting vulnerable households, vulnerable micro-enterprises or vulnerable transport users.

2. Member States shall provide for the necessary statutory and contractual safeguards to ensure that the entire benefit is passed on to the vulnerable households, vulnerable micro-enterprises or vulnerable transport users.

Article 10

Resources of the Fund

1. A maximum amount of EUR 65 000 000 000 for the period from 1 January 2026 to 31 December 2032 in current prices shall be made available, in accordance with Articles 10a(8b), 30d(3) and 30d(4) of Directive 2003/87/EC, for implementation of the Fund. That amount shall constitute external assigned revenue for the purposes of Article 21(5) of Regulation (EU, Euratom) 2018/1046, without prejudice to Article 30d(4), sixth subparagraph, of Directive 2003/87/EC.

The annual amounts allocated to the Fund, within the limit of the maximum amount laid down in the first subparagraph of this paragraph, shall not exceed the amounts referred to in Article 30d(4), fourth subparagraph, of Directive 2003/87/EC.

Where the emission trading system established in accordance with Chapter IVa of Directive 2003/87/EC is postponed until 2028 pursuant to Article 30k of that Directive, the maximum amount to be made available to the Fund shall be EUR 54 600 000 000 and the annual amounts allocated to the Fund shall not exceed the respective amounts referred to in the Article 30d(4), fifth subparagraph, of Directive 2003/87/EC.

2. By way of derogation from Article 22(2) of Regulation (EU, Euratom) 2018/1046 and without prejudice to Article 19 of this Regulation, commitment appropriations covering the relevant maximum amount referred to in paragraph 1 of this Article shall be made available automatically at the beginning of each financial year, starting from 1 January 2026, up to the relevant applicable annual amounts referred to in the second and third subparagraphs of paragraph 1.

3. The amounts referred to in paragraph 1 may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the Fund and the achievement of its objectives, in particular studies, meetings of experts, consultation of stakeholders, information and communication actions, including inclusive outreach actions, and corporate communication of the political priorities of the Union, insofar as they are related to the objectives of this Regulation, expenses linked to IT networks focusing on information processing and exchange, corporate IT tools, and all other technical and administrative assistance expenses incurred by the Commission for the

management of the Fund. Expenses may also cover the costs of other supporting activities such as quality control and monitoring of projects on the ground and the costs of peer counselling and experts for the assessment and implementation of the eligible actions.

Article 11

Resources from and to shared management programmes and use of resources

1. Resources allocated to Member States under shared management may, at their request, be transferred to the Fund subject to the conditions set out in the relevant provisions of Regulation (EU) 2021/1060. The Commission shall implement those resources directly in accordance with Article 62(1), first subparagraph, point (a), of Regulation (EU, Euratom) 2018/1046. Those resources shall be used exclusively for the benefit of the Member State concerned.

2. Member States may request in their Plans submitted in accordance with Article 4(1) of this Regulation for the transfer of up to 15 % of their maximum annual financial allocation to the funds under shared management provided for in Regulation (EU) 2021/1060. The transferred resources shall finance measures and investments as referred to in Article 8 of this Regulation and shall be implemented in accordance with the rules of the funds to which the resources are transferred. Resources shall be transferred by Member States through the amendment of one or more programmes, except for programmes under the European territorial cooperation goal (Interreg), in accordance with Article 26a of Regulation (EU) 2021/1060, and shall be implemented in accordance with the rules set out in that Regulation and the rules of the funds to which the resources are transferred.

3. Member States may entrust the managing authorities of the cohesion policy programmes under Regulation (EU) 2021/1060 with the implementation of measures and investments benefitting from the Fund, where applicable, in view of the synergies with those cohesion policy programmes and in conformity with the objectives of the Fund. Member States shall state their intention to thus entrust those authorities in their Plans. In such cases, the existing management and control systems put in place by Member States, as notified to the Commission, shall be deemed to comply with the requirements of this Regulation.

4. Member States may include in their Plans, as part of the estimated total costs, the payments for additional technical support pursuant to Article 7 of Regulation (EU) 2021/240 and the amount of the cash contribution for the purpose of the Member State compartment pursuant to the relevant provisions of Regulation (EU) 2021/523 of the European Parliament and of the Council ([31]). Those costs shall not exceed 4 % of the maximum financial allocation for the Plan, and the relevant measures, as set out in the Plan, shall comply with this Regulation.

Article 12

Implementation

The Fund shall be implemented by the Commission under direct management in accordance with the relevant rules adopted pursuant to Article 322 TFEU, in particular Regulation (EU, Euratom) 2018/1046 and Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget.

Article 13

Additionality and complementary funding

1. Support under the Fund shall be additional to the support provided under other Union funds, programmes and instruments. Measures and investments supported under the Fund may receive support from other Union funds, programmes and instruments provided that such support does not cover the same cost.

([31]) Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

2. Support from the Fund, including temporary direct income support referred to in Article 4(3), shall be additional and shall not substitute recurring national budgetary expenditure.

3. For technical assistance to Member States, administrative costs directly linked to the implementation of the Plan shall not be considered as recurring national budgetary expenditure.

Article 14

Maximum financial allocation

1. The maximum financial allocation shall be calculated for each Member State in accordance with Article 10 and as specified in Annexes I and II.

2. Each Member State may submit a request up to its maximum financial allocation to implement its Plan.

Article 15

National contribution to the estimated total costs

Member States shall contribute at least to 25 % of the estimated total costs of their Plans.

Article 16

Commission assessment

1. The Commission shall assess the Plan and, where applicable, any amendment to that Plan submitted by a Member State in accordance with Article 18, for compliance with this Regulation. When carrying out that assessment, the Commission shall act in close cooperation with the Member State concerned. The Commission may make observations or seek additional information within two months from the date of submission of the Plan by the Member State. The Member State shall provide the requested additional information and may revise the Plan if needed, including after the submission of the Plan. The Member State and the Commission may agree to extend the deadline for assessment by a reasonable period if necessary.

2. The Commission shall assess whether transfers requested in accordance with Article 11 meet the objectives of this Regulation.

3. The Commission shall assess the relevance, effectiveness, efficiency and coherence of the Plan, taking into account the specific challenges and the financial allocation of the Member State, as follows:

(a) for the purpose of assessing relevance, the Commission shall take into account the following criteria:

   (i) whether the Plan represents an adequate response to the social impact on and challenges faced by vulnerable households, vulnerable micro-enterprises and vulnerable transport users in the Member State concerned from the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC, in particular households in energy poverty or households in transport poverty, duly taking into account the challenges identified in the assessments of the Commission of the update of the concerned Member State's integrated national energy and climate plan and of its progress pursuant to Article 9(3), and Articles 13 and 29 of Regulation (EU) 2018/1999, as well as in the Commission recommendations to Member States issued pursuant to Article 34 of Regulation (EU) 2018/1999 in view of the Union's 2030 climate and energy targets and long-term objective of climate neutrality in the Union at the latest by 2050;

   (ii) whether the Plan is expected to ensure that measures and investments included in the Plan do not significantly harm environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 and whether the Plan helps reduce fossil fuel dependency;

(iii) whether the Plan contains measures and investments that contribute to the green transition, including to addressing the social impacts and challenges resulting therefrom and in particular to the achievement of the Union's 2030 climate and energy targets and long-term objective of climate neutrality in the Union at the latest by 2050 and the 2030 milestones of the Union's Sustainable and Smart Mobility Strategy;

(b) for the purpose of assessing effectiveness, the Commission shall take into account the following criteria:

(i) whether the Plan is expected to have a lasting impact in the Member State on the challenges addressed by that Plan, in line with the Union's 2030 climate and energy targets and long-term objective of climate neutrality in the Union at the latest by 2050, and in particular on vulnerable households, vulnerable micro-enterprises and vulnerable transport users, in particular households in energy poverty or households in transport poverty;

(ii) whether the arrangements proposed by the Member State are expected to ensure the effective monitoring and implementation of the Plan, including the envisaged timetable, milestones and targets, and the related indicators;

(iii) whether the measures and investments proposed by the Member State are consistent and compliant with the requirements of the Directive of the European Parliament and of the Council on energy efficiency (recast), Directive (EU) 2018/2001, the Regulation of the European Parliament and of the Council on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU of the European Parliament and of the Council, Directive 2009/33/EC of the European Parliament and of the Council ([32]) and Directive 2010/31/EU; and

(iv) whether the measures and investments proposed by the Member State foster complementarity, synergy, coherence and consistency with the Union instruments referred to in Article 6(3).

(c) for the purposes of assessing efficiency, the Commission shall take into account the following criteria:

(i) whether the justification provided by the Member State for the amount of the estimated total costs of the Plan is reasonable, plausible, in line with the principle of cost efficiency and commensurate with the expected national environmental and social impact, while also taking into account national specificities that could impact the costs provided in the Plan;

(ii) whether the arrangements proposed by the Member State are expected to prevent, detect and correct corruption, fraud and conflicts of interests when using the financial allocation provided under the Fund, including the arrangements that aim to avoid double funding from the Fund and other Union programmes;

(iii) whether the milestones and targets proposed by the Member State are efficient, in view of the scope, objectives and eligible actions of the Fund;

(d) for the purpose of assessing coherence, the Commission shall take into account whether the Plan contains measures and investments that represent coherent actions.

Article 17

Commission decision

1. On the basis of the assessment carried out in accordance with Article 16, the Commission shall decide on the Plan of a Member State, by means of an implementing act, no later than five months from the date of the submission of that Plan pursuant to Article 4(1).

2. Where the Commission gives a positive assessment of a Plan, the implementing act referred to in paragraph 1 shall set out:

(a) the measures and investments to be implemented by the Member State, the amount of the estimated total costs of the Plan, and the milestones and targets;

([32]) Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles (OJ L 120, 15.5.2009, p. 5).

(b) the maximum financial allocation allocated in accordance with Article 14(1) to be paid in instalments, in accordance with Article 20, once the Member State has satisfactorily achieved the relevant milestones and targets identified in relation to the implementation of the Plan;

(c) the national contribution;

(d) the arrangements and timetable for monitoring and implementation of the Plan, including, where relevant, measures necessary for complying with Article 21;

(e) the relevant indicators relating to the achievement of the envisaged milestones and targets; and

(f) the arrangements for providing access by the Commission to the underlying relevant data.

3. The maximum financial allocation referred to in paragraph 2, point (b), of this Article shall be determined on the basis of the estimated total costs of the Plan proposed by the Member State, as assessed by reference to the criteria set out in Article 16(3).

The amount of the maximum financial allocation referred to in paragraph 2, point (b), of this Article shall be set as follows:

(a) where the Plan complies satisfactorily with the criteria set out in Article 16(3), and the amount of the estimated total costs of the Plan minus the national contribution is equal to, or higher than, the maximum financial allocation for that Member State referred to in Article 14(1), the financial allocation allocated to the Member State shall be equal to the total amount of the maximum financial allocation referred to in Article 14(1);

(b) where the Plan complies satisfactorily with the criteria set out in Article 16(3), and the amount of the estimated total costs of the Plan minus the national contribution is lower than the maximum financial allocation for that Member State referred to in Article 14(1), the financial allocation allocated to the Member State shall be equal to the amount of the estimated total costs of the Plan minus the national contribution;

(c) where the Plan complies satisfactorily with the criteria set out in Article 16(3), but the assessment identifies weaknesses in the internal control systems, the Commission may require that additional measures to address those weaknesses be included in the Plan and be achieved by the Member State before the first payment;

(d) where the Plan does not comply satisfactorily with the criteria set out in Article 16(3), no financial allocation shall be allocated to the Member State.

4. Where the Commission gives a negative assessment of a Plan, the decision referred to in paragraph 1 shall include the reasons for that negative assessment. The Member State shall resubmit the Plan, after taking into account the assessment of the Commission.

Article 18

Amendment of Social Climate Plans

1. Where a Plan is no longer achievable, including relevant milestones and targets, or needs to be significantly adjusted, either in whole or in part, by a Member State because of objective circumstances, in particular because of the actual direct effects of the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC, the Member State concerned shall submit an amended Plan to the Commission in order to include the necessary and duly justified changes. Member States may request technical support, in accordance with Article 11(4), for the preparation of the amended Plan.

2. The Commission shall assess the amended Plan in accordance with Article 16.

3. Where the Commission gives a positive assessment of the amended Plan, it shall in accordance with Article 17(1) adopt a decision setting out the reasons for its positive assessment, by means of an implementing act. By way of derogation from Article 17(1), the Commission shall adopt the decision under this paragraph within three months from the date of the submission of the amended Plan by the Member State concerned.

4. Where the Commission gives a negative assessment of the amended Plan, it shall reject the amended Plan within the period referred to in paragraph 3, after having given the Member State concerned the possibility to present its observations within three months from the date of the communication of the Commission's assessment of the amended Plan.

5. By 15 March 2029 each Member State shall assess the appropriateness of its Plan in view of the actual direct effects of the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC. Those assessments shall be submitted to the Commission together with the integrated national energy and climate progress reports pursuant to Article 17 of Regulation (EU) 2018/1999.

6. In the case of minor adjustments to the Plan, representing an increase or decrease of less than 5 % of a target set out in the Plan, such as minor updates in the measures and investments set out in the Plan, or the correction of clerical errors, a Member State shall notify such changes to the Commission.

Article 19

Commitment of the financial allocation

1. After the Commission has adopted a positive decision as referred to in Article 17 of this Regulation, it shall in due time conclude an agreement with the Member State concerned constituting an individual legal commitment within the meaning of Regulation (EU, Euratom) 2018/1046 for the period 2026-2032, without prejudice to Article 30d(4) and Articles 30i and 30k of Directive 2003/87/EC. That agreement shall be concluded at the earliest one year before the year of the start of the auctions under Chapter IVa of Directive 2003/87/EC, or two years before that year, in cases where Article 10(1), third subparagraph, of this Regulation applies.

2. Budgetary commitments may be based on global commitments and, where appropriate, may be broken down into annual instalments spread over several years.

Article 20

Rules on payments, suspension and termination of agreements regarding financial allocations

1. Payments of financial allocations under this Article to the Member State shall be made upon achievement of the relevant agreed milestones and targets indicated in the Plan, as approved in accordance with Article 17, and subject to the availability of funding. Upon such achievement, the Member State shall submit to the Commission a duly reasoned payment request. The Member State shall submit such payment requests to the Commission once or twice a year, by 31 July or by 31 December.

2. Upon receiving a payment request from a Member State, the Commission shall assess whether the relevant milestones and targets set out in the Commission decision referred to in Article 17 have been satisfactorily achieved. The satisfactory achievement of milestones and targets shall presuppose that measures related to previously satisfactorily achieved milestones and targets have not been reversed by the Member State concerned.

3. Where the Commission makes a positive assessment of an individual payment request, it shall adopt an individual decision authorising the disbursement of the financial allocation in accordance with Regulation (EU, Euratom) 2018/1046, subject to the availability of funding and ensuring the equal treatment of Member States. The Commission shall adopt the individual decision not earlier than two months and not later than three months after the relevant deadline for submission of the payment request in accordance with paragraph 1 of this Article.

4. Where, as a result of the assessment referred to in paragraph 3 of this Article, the Commission establishes that the milestones and targets set out in the Commission decision referred to in Article 17 have not been satisfactorily achieved, the payment of the part of the financial allocation proportional to the unachieved target or milestone shall be suspended. The Member State may present its observations within one month of the communication of the Commission's assessment.

The suspension shall only be lifted where the milestones and targets have been satisfactorily achieved as set out in the Commission decision referred to in Article 17.

5. By way of derogation from Article 116(2) of Regulation (EU, Euratom) 2018/1046, the payment deadline shall start running from the date of the communication of the Commission's decision authorising the disbursement of the financial allocation to the Member State concerned pursuant to paragraph 3 of this Article, or from the date of the communication of the lifting of a suspension pursuant to paragraph 4, second subparagraph, of this Article.

6. Where the milestones and targets have not been satisfactorily achieved within a period of nine months from the suspension referred to in paragraph 4, first subparagraph, the Commission shall reduce the amount of the financial allocation proportionately after having given the Member State the possibility to present its observations within two months from the communication of its conclusions as to the achievement of the milestones and targets.

7. Where, within 15 months from the date of the conclusion of relevant agreements referred to in Article 19, no tangible progress has been made in respect of any relevant milestones and targets by the Member State, the Commission shall terminate those agreements and shall decommit the amount of the financial allocation without prejudice to Article 14(3) of Regulation (EU, Euratom) 2018/1046. The Commission shall take a decision on the termination of those agreements after having given the Member State the possibility to present its observations within a period of two months of the communication of the assessment by the Commission that no tangible progress has been made.

8. All payments shall be made by 31 December 2033.

9. By way of derogation from Article 116 of Regulation (EU, Euratom) 2018/1046 and paragraph 5 of this Article, if, in a given round of payment requests as referred to in paragraph 1 of this Article, the revenue assigned to the Fund in accordance with Article 30d(4) of Directive 2003/87/EC is not sufficient to cover the submitted payment requests, the Commission shall pay the Member States on a pro-rata basis determined as a share of the payment availabilities to the total approved payments. In the following round of payment requests, the Commission shall give priority to those Member States with delayed payments from the previous round of payment requests, and only later to the newly submitted payment requests.

10. By way of derogation from Article 12(4), point (c), of Regulation (EU, Euratom) 2018/1046 and without prejudice to Article 30d(4), sixth subparagraph, of Directive 2003/87/EC, the Commission shall allocate to Member States the amounts corresponding to any appropriations that are unused by 31 December 2033 in accordance with the rules for distribution of allowances defined under Article 30d(5) of Directive 2003/87/EC in order to achieve the objectives referred to in Article 3 of this Regulation.

Article 21

Protection of the financial interests of the Union

1. The Member States, when implementing the Plans, as beneficiaries of funds under the Fund, shall take all the appropriate measures to protect the financial interests of the Union and to ensure that the use of the financial allocations in relation to measures and investments supported by the Fund, including those carried out by public or private entities other than vulnerable households, vulnerable micro-enterprises and vulnerable transport users in accordance with Article 9, complies with applicable Union and national law, in particular regarding the prevention, detection and correction of fraud, corruption and conflicts of interests. To that effect, the Member States shall provide an effective and efficient internal control system as further set out in Annex III and the recovery of amounts wrongly paid or incorrectly used. Member States may rely on their regular national budget management systems.

2. The agreements referred to in Article 19 shall provide for the following obligations of the Member States:

(a) to regularly check that the financing provided has been properly used in accordance with all applicable rules and that any measure or investment under the Plan has been properly implemented in accordance with all applicable rules, in particular regarding the prevention, detection and correction of fraud, corruption and conflicts of interests;

(b) to take appropriate measures to prevent, detect and correct fraud, corruption, and conflicts of interests as defined in Article 61 of Regulation (EU, Euratom) 2018/1046 affecting the financial interests of the Union and to take legal action to recover funds that have been misappropriated, including in relation to any measure or investment implemented under the Plan;

(c) to accompany a payment request by:

(i) a management declaration that the financial allocations were used for its intended purpose, that the information submitted with the payment request is complete, accurate and reliable and that the internal control systems put in place give the necessary assurances that the financial allocations were managed in accordance with all applicable rules, in particular rules on avoidance of conflicts of interests, fraud prevention, corruption and double funding from the Fund and other Union programmes in accordance with the principle of sound financial management; and

(ii) a summary of the audits carried out in accordance with internationally accepted audit standards, including the scope of those audits in terms of amount of spending covered and period of time covered and an analysis of the weaknesses identified and any corrective action taken;

(d) for the purpose of audit and control and to provide for comparable information on the use of financial allocations in relation to measures and investments implemented under the Plan, to collect, record and store in an electronic system and ensure access to the following standardised categories of data:

(i) name of the final recipients of the financial allocations, their VAT registration numbers or tax identification numbers and amount of the financial allocations from the Fund;

(ii) name of the contractor(s) and sub-contractor(s) and their VAT registration number(s) or tax identification number(s) and value of the contract(s) where the final recipient of the financial allocations is a contracting authority in accordance with Union or national law on public procurement;

(iii) first name(s), last name(s), date(s) of birth and VAT registration number(s) or tax identification number(s), of beneficial owner(s) of the recipient of the financial allocations or contractor, as defined in Article 3, point (6), of Directive (EU) 2015/849 of the European Parliament and of the Council ([33]);

(iv) a list of any measures and investments implemented under the Fund with the total amount of public funding of those measures and investments and indicating the amount of funds paid under other funds financed from the Union budget;

(e) to expressly authorise the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, to exert their rights as provided for in Article 129(1) of Regulation (EU, Euratom) 2018/1046 and to impose obligations on all final recipients of the financial allocations paid for implementing the measures and investments included in the Plan, or to all other persons or entities involved in their implementation to expressly authorise the Commission, OLAF, the Court of Auditors and, where applicable, EPPO to exert their rights as provided for in Article 129(1) of Regulation (EU, Euratom) 2018/1046 and to impose similar obligations on all final recipients of funds disbursed;

(f) to keep records in accordance with Article 132 of Regulation (EU, Euratom) 2018/1046, the point of reference being the payment transaction relevant to the respective measure or investment.

The information referred to in point (d)(ii) of the first subparagraph of this Article shall be required only where the value of public procurement is greater than the Union thresholds set out in Article 4 of Directive 2014/24/EU of the European Parliament and of the Council ([34]). Regarding subcontractors, that information shall be required only:

(a) for the first level of sub-contracting;

([33]) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

([34]) Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

(b) where that information is recorded regarding the respective contractor; and

(c) for sub-contracts with a total value greater than EUR 50 000.

3. Personal data as referred to in paragraph 2, point (d), of this Article shall be processed by Member States and by the Commission for the purpose, and corresponding duration, of discharge, audit and control proceedings, and information, communication and visibility activities, related to the use of financial allocations related to the implementation of the agreements referred to in Article 19. The personal data shall be processed in accordance with Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, whichever is applicable. Within the framework of the discharge procedure to the Commission, in accordance with Article 319 TFEU, the Fund shall be subject to reporting under the integrated financial and accountability reporting referred to in Article 247 of Regulation (EU, Euratom) 2018/1046, and, in particular, separately in the annual management and performance report.

4. The agreements referred to in Article 19 shall also provide for the right of the Commission to reduce proportionately the support under the Fund and recover any amount due to the Union budget, in cases of fraud, corruption, and conflict of interests affecting the financial interests of the Union that have not been corrected by the Member State, or a serious breach of an obligation resulting from such agreements.

When deciding on the amount of the recovery and reduction the Commission shall respect the principle of proportionality and shall take into account the seriousness of the fraud, corruption and conflict of interests affecting the financial interests of the Union, or of a breach of an obligation. The Commission shall give the Member State the opportunity to present its observations before the reduction is made.

CHAPTER IV

Complementarity, monitoring and evaluation

Article 22

Coordination and complementarity

The Commission and the Member States concerned shall, in a manner commensurate to their respective responsibilities, foster synergies and ensure effective coordination between the Fund and the Union programmes and instruments referred to in Article 6(3) of this Regulation, and the Modernisation Fund under Article 10d of Directive 2003/87/EC. For that purpose, they shall:

(a) ensure complementarity, synergy, coherence and consistency among different instruments at Union, national and, where appropriate, local or regional levels, both in the planning phase and during implementation;

(b) optimise mechanisms for coordination to avoid duplication of effort; and

(c) ensure close cooperation between those responsible for implementation and control at Union, national and, where appropriate, local or regional levels to achieve the objectives of the Fund.

Article 23

Information, communication and visibility

1. Member States shall make the data referred to in Article 21(2), point (d)(i), (ii) and (iv), of this Regulation publicly available and keep them up to date on a single website in open, machine-readable formats, as set out in Article 5(1) of Directive (EU) 2019/1024 of the European Parliament and of the Council ([35]), which shall allow data to be sorted, searched, extracted, compared and reused. The information referred to in Article 21(2), points (d)(i) and (ii), of this Regulation shall not be published in the cases referred to in Article 38(3) of Regulation (EU, Euratom) 2018/1046 or in the case of temporary direct income support to vulnerable households.

([35]) Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

2. The recipients of support from the Fund shall be informed of the origin of those funds, including where they benefit from those funds through intermediaries. That information shall include the emblem of the Union and an appropriate funding statement that reads 'funded by the European Union – Social Climate Fund' on documents and communication material relating to the implementation of the measure intended for the recipients. The recipients of support from the Fund, except the support for natural persons or where there is risk of commercially sensitive information being made public, shall ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.

3. The Commission shall implement information and communication actions relating to the Fund, to actions taken pursuant to this Regulation and to the results obtained, including, where appropriate and with the agreement of the national authorities, through joint communication activities with the national authorities and the representation offices of the European Parliament and of the Commission in the Member State concerned.

Article 24

Monitoring of implementation

1. Each Member State shall, on a biennial basis, report to the Commission on the implementation of its Plan together with its integrated national energy and climate progress report pursuant to Article 17 of Regulation (EU) 2018/1999 and in accordance with Article 28 thereof. The monitoring of implementation shall be targeted and proportionate to the activities carried out in the Plan. The Member States shall include the indicators set out in Annex IV to this Regulation in their progress report.

2. The Commission shall monitor the implementation of the Fund and measure the achievement of its objectives. The monitoring of implementation shall be targeted and proportionate to the activities carried out under the Fund.

3. The performance reporting system of the Commission shall ensure that data for monitoring the implementation of the activities and results are collected efficiently, effectively and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of support from the Fund.

4. The Commission shall use the common indicators set out in Annex IV for reporting on the progress and for the purpose of monitoring and evaluation of the Fund towards the achievement of the objectives set out in Article 3.

Article 25

Transparency

1. The Commission shall transmit the Plans submitted by Member States and the decisions, as made public by the Commission, simultaneously and on equal terms to the European Parliament and the Council without undue delay.

2. Information transmitted by the Commission to the Council in the context of this Regulation or its implementation shall simultaneously be made available to the European Parliament, subject to confidentiality arrangements if necessary.

3. The competent committees of the European Parliament may invite the Commission to provide information on the state of play of the assessment by the Commission of the Plans.

Article 26

Social climate dialogue

1. In order to enhance the dialogue between the Union institutions, in particular the European Parliament and the Commission, and to ensure greater transparency and accountability, the competent committees of the European Parliament may invite the Commission twice a year to discuss the following matters:

(a) the Plans submitted by Member States;

(b) the assessment by the Commission of the Plans submitted by Member States;

(c) the status of achievement of the milestones and targets set out in the Plans submitted by Member States;

(d) payment, suspension and termination procedures, including any observation presented and remedial measures taken by Member States to ensure the satisfactory achievement of the milestones and targets set out in the Plans submitted by them.

2. The Commission shall take account of any elements arising from the views expressed through the social climate dialogue, including the resolutions of the European Parliament if provided.

CHAPTER V

Final provisions

Article 27

Evaluation and review of the Fund

1. Two years after the start of the implementation of the Plans, the Commission shall provide the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions with an evaluation report on the implementation and functioning of the Fund, taking into account the results of the first reports submitted by Member States in accordance with Article 24, and shall submit, where appropriate, any proposals for amendments to this Regulation.

2. The evaluation report referred to in paragraph 1 shall, in particular, assess:

(a) the extent to which the objectives of the Fund set out in Article 3 have been achieved, the efficiency of the use of the resources and the Union added value;

(b) on a country-by-country basis, the efficiency of measures and investments and the use of the direct income support in light of the achievement of the milestones and targets set out in the Plans;

(c) how the definitions of energy poverty and transport poverty are applied in Member States, based on the information referred to in Article 6(1), point (f), as well as whether amendments to such definitions are necessary;

(d) the continued relevance of all objectives, and measures and investments set out in Article 8 of this Regulation in light of the impact on greenhouse gas emissions of the inclusion of greenhouse gas emissions from buildings and road transport within the scope of Directive 2003/87/EC and of the national measures taken to meet the binding annual greenhouse gas emission reductions by Member States pursuant to Regulation (EU) 2018/842 of the European Parliament and of the Council ([36]), as well as the continued relevance of the assigned revenues in relation to possible developments concerning the auctioning of allowances under the emission trading system for buildings, road transport and additional sectors pursuant to Chapter IVa of Directive 2003/87/EC and other relevant considerations.

3. By 31 December 2033, the Commission shall provide the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions with an independent *ex post* evaluation report. The *ex post* evaluation report shall consist of a global assessment of the Fund and shall include information on its impact.

4. Without prejudging the multiannual financial framework post 2027, in the event revenue generated from the auctioning of allowances referred to in Article 30d(5) of Directive 2003/87/EC is established as an own resource in accordance with Article 311(3) TFEU, the Commission shall, as appropriate, present the necessary proposals in order to ensure, within the framework of the multiannual financial framework post 2027, the effectiveness and continuity of the implementation of the Fund, which is temporarily and exceptionally financed by external assigned revenue generated from allowances of the emission trading system.

([36]) 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).

Article 28

Amendment to Regulation (EU) 2021/1060

The following Article is inserted in Regulation (EU) 2021/1060:

'*Article 26a*

Resources transferred from the Social Climate Fund

1. Resources transferred from the Social Climate Fund, established by Regulation (EU) 2023/955 of the European Parliament and of the Council (*) shall be implemented in accordance with this Regulation and the provisions governing the Fund to which the resources are transferred and shall be definitive. Such resources shall constitute external assigned revenue for the purpose of Article 21(5) of Regulation (EU, Euratom) 2018/1046 and shall be additional to the resources referred to in Article 110 of this Regulation.

2. Where Member States implement the resources referred to in paragraph 1 of this Article under shared management, they shall submit programme amendments in accordance with Article 24 of this Regulation concerning one or more programmes. Member States shall plan the use of such resources for achieving the climate objectives set out for the Union budget in accordance with Article 6(1) of this Regulation. Those resources shall contribute to achieving relevant objectives of the Social Climate Fund as set out in Article 3 of Regulation (EU) 2023/955 and shall be used to support measures and investments set out in Article 8 of that Regulation. They shall be programmed under one or more dedicated priorities corresponding to one or more specific objectives of the Fund to which the resources are transferred and for one or more categories of regions, where applicable, with an indication of the yearly breakdown of resources. They shall not be taken into account for the calculation of compliance with thematic concentration requirements as set out in Fund-specific rules.

3. Where the Commission has already approved a Member State's request for an amendment of a programme relating to a transfer of resources from the Social Climate Fund, for any further transfer of resources in subsequent years, the Member State may submit a notification of financial tables instead of an amendment of a programme, provided that the proposed changes relate exclusively to an increase of the financial resources, without any further changes to the programme.

4. By way of derogation from Article 18 and Article 86(1), second subparagraph, of this Regulation, the resources transferred in accordance with this Article and Article 11(2) of Regulation (EU) 2023/955 shall not be taken into account for the mid-term review and the flexibility amount.

5. By way of derogation from Article 14(3) of Regulation (EU, Euratom) 2018/1046, the time limit after which the Commission shall decommit the amounts in accordance with Article 105(1) of this Regulation shall start from the year in which the corresponding budgetary commitments are made. Resources shall not be transferred to programmes under the European territorial cooperation goal (Interreg).

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(*) Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060 (OJ L 130, 16.5.2023, p. 1).'.

Article 29

Entry into force

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

It shall apply from 30 June 2024, the date by which the Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with Directive (EU) 2023/959 of the European Parliament and of the Council ([37]) amending Directive 2003/87/EC as regards Chapter IVa of Directive 2003/87/EC.

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

Done at Strasbourg, 10 May 2023.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	J. ROSWALL

([37]) Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (see page 134 of this Official Journal).

ANNEX I

METHODOLOGY FOR THE CALCULATION OF THE MAXIMUM FINANCIAL ALLOCATION FOR EACH MEMBER STATE UNDER THE FUND PURSUANT TO ARTICLE 14

This Annex sets out the methodology for calculating the maximum financial allocation available for each Member State in accordance with Articles 10 and 14.

The methodology takes into account the following variables with regard to each Member State:

— population at risk of poverty living in rural areas (2019);

— carbon dioxide emissions from fuel combustion by households (2016-2018 average);

— the percentage of households at risk of poverty with arrears on their utility bills (2019);

— total population (2019);

— the Member State's gross national income (GNI) per capita, measured in purchasing power standard (2019);

— the share of reference emissions under Article 4(2) of Regulation (EU) 2018/842 for the emission sources 1A3b, 1A4a and 1A4b, as established in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories (2016-2018 average), as comprehensively reviewed pursuant to Article 4(3) of that Regulation.

The maximum financial allocation of a Member State under the Fund (MFAi) is established as follows:

$$MFA_i = \alpha_i \times (MA)$$

Where:

The maximum amount (MA) for the implementation of the Fund is as referred to in Article 10(1) and α_i is the share of Member State i in the maximum amount, determined on the basis of the following steps:

$$\alpha_i = (50\% \times \beta_i + 50\% \times \lambda_i) \times \frac{GNI_{EU}^{PC}}{GNI_i^{PC}}$$

With

$$\beta i = \min\left(\frac{rural\ pop_i}{rural\ pop_{EU}}, \frac{pop_i}{pop_{EU}} \times f_i\right)$$

$$\lambda_i = \gamma_i \times \delta_i$$

$$\gamma i = \frac{HCO2_i}{HCO2_{EU}}$$

$$\delta i = \min\left(\frac{arrears_i}{arrears_{EU}}, f_i\right)$$

$$fi = 1 \text{ if } GNI_i^{PC} \geq GNI_{EU}^{PC};\ fi = 2{,}5 \text{ if } GNI_i^{PC} \< GNI_{EU}^{PC}$$

Where for each Member State i:

$rural\ pop_i$ is the population at risk of poverty living in rural areas of the Member State i;

$rural\ pop_{EU}$ is the sum of population at risk of poverty living in rural areas of the Member States of the EU-27;

pop_i is the population of the Member State i;

pop_{EU} is the sum of the population of the Member States of the EU-27;

$HCO2_i$ is the carbon dioxide emissions from fuel combustion by households of the Member State i;

$HCO2_{EU}$ is the sum of carbon dioxide emissions from fuel combustion by households of the Member States of the EU-27;

$arrears_i$ is the percentage of households at risk of poverty with arrears on utility bills of the Member State i;

$arrears_{EU}$ is the percentage of households at risk of poverty with arrears on utility bills of the EU-27;

GNI_i^{PC} is the GNI per capita of the Member State i;

GNI_{EU}^{PC} is the GNI per capita of the EU-27.

The βi of those Member States with a GNI per capita below the EU-27 value and for which the $\frac{rural\ pop_i}{rural\ pop_{EU}}$ is the minimum component are proportionally adjusted to ensure that the sum of βi for all Member States equals 100 %. All λi are proportionally adjusted to ensure that their sum equals 100 %.

For all Member States, α_i cannot be lower than 0,07 % of the maximum amount as referred to in Article 10(1). The α_i of all Member States with α_i higher than 0,07 % are proportionally adjusted to ensure that the sum of all α_i equals 100 %.

For the Member States with a GNI per capita below 90 % of the EU-27 value, α_i cannot be lower than the share of reference emissions under Article 4(2) of Regulation (EU) 2018/842 for the emission sources 1A3b, 1A4a and 1A4b, as established in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories for the average of the period 2016-2018, as comprehensively reviewed pursuant to Article 4(3) of that Regulation. The α_i of the Member States with a GNI per capita above the EU-27 value are proportionally adjusted to ensure that the sum of all α_i equals 100 %.

ANNEX II

Maximum financial allocation for each Member State under the Fund pursuant to Articles 10 and 14

The application of the methodology in Annex I to the amounts referred to in Article 10(1) results in the following share and maximum financial allocation for each Member State.

Any amounts pertaining from Article 10(3) will be covered within the limits of the maximum financial allocation for each Member State on a pro rata basis.

Maximum financial allocation per Member State			
Member State	Share as % of total	TOTAL 2026-2032 (in EUR, current prices)	
		Pursuant to Article 10(1), first and second subparagraphs	Pursuant to Article 10(1), third subparagraph
Belgium	2,55	1 659 606 425	1 394 069 397
Bulgaria	3,85	2 499 490 282	2 099 571 836
Czechia	2,40	1 562 617 717	1 312 598 882
Denmark	0,50	324 991 338	272 992 724
Germany	8,18	5 317 778 511	4 466 933 949
Estonia	0,29	186 244 570	156 445 439
Ireland	1,02	663 390 868	557 248 329
Greece	5,52	3 586 843 608	3 012 948 631
Spain	10,52	6 837 784 631	5 743 739 090
France	11,19	7 276 283 944	6 112 078 513
Croatia	1,94	1 263 071 899	1 060 980 395
Italy	10,81	7 023 970 924	5 900 135 577
Cyprus	0,20	131 205 466	110 212 591
Latvia	0,71	463 676 528	389 488 284
Lithuania	1,02	664 171 367	557 903 948
Luxembourg	0,10	66 102 592	55 526 177
Hungary	4,33	2 815 968 174	2 365 413 267
Malta	0,07	45 500 000	38 220 000
Netherlands	1,11	720 463 632	605 189 451
Austria	0,89	578 936 189	486 306 399
Poland	17,60	11 439 026 446	9 608 782 215
Portugal	1,88	1 223 154 017	1 027 449 374
Romania	9,25	6 012 677 290	5 050 648 923
Slovenia	0,55	357 971 733	300 696 256
Slovakia	2,35	1 530 553 074	1 285 664 582

Maximum financial allocation per Member State			
Member State	Share as % of total	TOTAL 2026-2032 (in EUR, current prices)	
		Pursuant to Article 10(1), first and second subparagraphs	Pursuant to Article 10(1), third subparagraph
Finland	0,54	348 132 328	292 431 155
Sweden	0,62	400 386 447	336 324 616
EU27	100 %	65 000 000 000	54 600 000 000

ANNEX III

Key requirements for the Member State's internal control system

1. The Member State shall provide an effective and efficient internal control system, in accordance with its institutional, legal and financial framework, including separation of functions and reporting, supervising and monitoring arrangements.

   This includes:

   (a) the designation of the authorities entrusted with the implementation of the Plan and the allocation of the related responsibilities and functions;

   (b) the designation of the authority or authorities responsible for signing the management declaration accompanying the payment requests;

   (c) procedures ensuring that this authority or these authorities will get assurance about the achievement of the milestones and targets set in the Plan, and that the funds were managed in accordance with all applicable rules, in particular rules on avoidance of conflicts of interests, fraud prevention, corruption and double funding;

   (d) an appropriate separation between managing and audit functions.

2. The Member State shall conduct an effective implementation of proportionate anti-fraud and anti-corruption measures, as well as any necessary measure to effectively avoid conflict of interests.

   This includes:

   (a) appropriate measures related to the prevention, detection and correction of fraud, corruption and conflict of interests, as well as avoidance of double funding and to take legal actions to recover funds that have been misappropriated;

   (b) a fraud risk assessment and the definition of appropriate anti-fraud mitigating measures.

3. The Member State shall maintain appropriate procedures for drawing up the management declaration and summary of the audits carried out at national level.

   This includes:

   (a) an effective procedure for drawing up the management declaration, documenting the summary of audits and keeping the underlying information for audit trail;

   (b) effective procedures to ensure that all cases of fraud, corruption and conflict of interests are properly reported and corrected through recoveries.

4. To provide the information necessary, the Member State shall ensure appropriate management verifications, including procedures for checking the achievement of milestones and targets and compliance with horizontal principles of sound financial management.

   This includes:

   (a) appropriate management verifications through which implementing authorities will check the achievement of milestones and targets of the fund (e.g. desk reviews, on-the-spot checks);

   (b) appropriate management verifications through which the implementing authorities will check the absence of serious irregularities, namely fraud, corruption and conflict of interests, and double funding (e.g. desk reviews, on-the-spot checks).

5. The Member State shall conduct adequate and independent audits of systems and operations in accordance with internationally accepted audit standards.

   This includes:

   (a) the designation of the body or bodies which will carry out the audits of systems and operations and how their functional independence is ensured;

(b) the allocation of sufficient resources to this body or bodies for the purpose of the Fund;

(c) the effective tackling by the body or bodies of the risk of fraud, corruption, conflict of interests and double funding both through system audits and audits of operations.

6. The Member State shall maintain an effective system to ensure that all information and documents necessary for audit trail purposes are held.

This includes:

(a) effective collection, recording and storage in an electronic system of data on the final recipients of measures or investments necessary to achieve the milestones and targets;

(b) access for the Commission, OLAF, European Court of Auditors and in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, to the data on final recipients.

ANNEX IV

Common indicators for indicative milestones and targets for the Social Climate Plans of the Member States referred to in Article 6(1), point (m), monitoring by the Member State of the implementation of its Plan referred to in Article 24(1), evaluation by the Commission of the progress towards the objectives of the Fund referred to in Article 24(4)

Measures and investments can contribute to several of the common indicators. If a Member State's Plan does not contain a measure or investment contributing to some of the indicators, a Member State may indicate 'non-applicable'.

Number	Common indicator related to the Fund support	Explanation	Unit
Buildings sector			
Context indicators			
1	Number of vulnerable households	In line with the definition in Article 2, point (10).	Number of households
2	Number of households in energy poverty	In line with the definition in Article 2, point (1).	Number of households
Output indicators			
3	Number of vulnerable households that have benefitted from at least one structural measure reducing their emissions in the buildings sector	In line with Article 2, point (10) and Article 8(1). Only measures due to Fund support.	Number of households
4	Number of buildings having undergone deep renovation (i.e. a renovation which transforms a building or building unit (a) before 1 January 2030, into a nearly zero-energy building (b) as of 1 January 2030, into a zero-emission building)	The indicator counts the number of buildings and the corresponding floor area being renovated fully or partially based on the support by measures and investments under the Fund, where 'building renovation' is defined in Article 2, point (13). In addition, the indicator shall distinguish buildings on the basis of their Energy Performance Certificate class, and identify specifically how many worst-performing buildings have been renovated.	Buildings units
5	Total useful floor area of buildings having undergone deep renovation (i.e. a renovation which transforms a building or building unit (a) before 1 January 2030, into a nearly zero-energy building (b) as of 1 January 2030, into a zero-emission building)		Renovated floor area (m2/year)
6	Number of buildings having undergone other energy renovation (i.e. all energy renovations except deep renovations, to be reported above)		Buildings units
7	Total useful floor area of buildings having undergone other energy renovation (i.e. all energy renovations except deep renovations, to be reported above)		Renovated floor area (m2/year)

Number	Common indicator related to the Fund support	Explanation	Unit
8	Replacement of fossil fuel heating installation with a renewable based appliance and/or a highly efficient installation on the basis of the Energy Label class as established in the relevant legal act.	These actions fulfil the renewable EU benchmark and the indicative share of renewable energy (in final energy consumption) established at national level in the buildings sector under the relevant provision of Directive (EU) 2018/2001. Renewable heating and cooling systems and renewable electricity both can contribute to this benchmark. These actions would also contribute to the renewable heating and cooling target under the relevant provision of that Directive. This concerns only additional replacements of fossil fuel heating installations due to Fund support.	Number of units of fossil fuel heating installation replaced (e.g. by a heat pump or solar thermal installation)
9	Additional operational capacity installed for renewable energy	Number and capacity of rooftop photovoltaic and solar thermal collectors or photovoltaic thermal panels (PVT); number and capacity of heat pumps; number and capacity of other renewable space heating and cooling technologies including renewable based boilers. Only concerns additional operational capacity due to Fund support.	MW
10			number of units
Result indicators			
11	Reduction of number of vulnerable households	Reduction of number of vulnerable households as a result of measures and investments financed under the Fund.	%
12	Estimated reduction in greenhouse gas emissions in the buildings sector	Reduction in greenhouse gas emissions in the buildings sector triggered by measures and investments financed under the Fund. The emissions in the buildings sector are established as those covered by Chapter IVa of Directive 2003/87/EC (for the buildings sector, emission sources 1A4a and 1A4b, as established in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories).	ktCO2e
13	Reduction of number of households in energy poverty	Reduction of number of households in energy poverty as a result of measures and investments financed under the Fund. Member States concerned by Article 3(3), point (d), of Regulation (EU) 2018/1999 shall include, pursuant to Article 24, point (b) of that Regulation, in their integrated national energy and climate progress report quantitative information on the number of households in energy poverty. Member States may use and are not limited to the indicators available with the Statistical Office of the European Union (Eurostat) identified as relevant in Commission Recommendation (EU) 2020/1563 of 14 October 2020 on energy poverty [1], listed in the reporting template for integrated national energy and climate progress reports.	%

[1] OJ L 357, 27.10.2020, p. 35.

Number	Common indicator related to the Fund support	Explanation	Unit
		The indicator does not count collective dwellings such as hospitals, care homes, prisons, military barracks, religious institutions, boarding houses, workers' hostels, etc.	
14	Savings in annual primary energy consumption	The energy savings achieved shall be calculated, for this purpose, only on the basis of the financial support from the Fund. Member States shall report on the annual final/primary energy consumption reduction achieved among vulnerable households, people affected by energy poverty and, where applicable, people living in social housing pursuant to of the relevant provisions of the Directive of the European Parliament and of the Council on energy efficiency (recast) due to Fund support that is complementary to the Energy Efficiency National Fund under the relevant provisions of that Directive, including the support channelled through energy efficiency obligation schemes and alternative policy measures pursuant to the relevant provision of that Directive and including interventions made to comply with minimum energy performance standards pursuant to the relevant provisions of that Directive.	MWh/year
15			kWh/m2 (if total floor area is available)
16	Savings in annual final energy consumption	The baseline refers to the annual final and primary energy consumption before the intervention, and the achieved value refers to the annual final and primary energy consumption for the year after the intervention. Energy savings in individual buildings shall be documented on the basis of Energy Performance Certificates or other criteria for determining the targeted or achieved energy savings set out in the relevant provision of the Directive of the European Parliament and of the Council on the energy performance of buildings (recast).	kWh/m2 (if total floor area is available)
17			MWh/year
Road transport sector			
Context indicators			
18	Number of vulnerable transport users	In line with the definition in Article 2, point (12).	Number of households
19	Number of households in transport poverty	In line with the definition in Article 2, point (2).	Number of households
Output indicators			
20	Number of vulnerable transport users that have benefitted from at least one structural measure reducing their emissions in the road transport sector	In line with Article 2, point (12) and Article 8(1). Only measures due to Fund support.	Number of households

Number	Common indicator related to the Fund support	Explanation	Unit
21	Purchases of zero-emission vehicles	Number of zero-emission vehicles supported by measures and investments financed under the Fund.	Number of zero-emission vehicles
22	Purchases of low-emission vehicles	Number of low-emission vehicles supported by measures and investments financed under the Fund.	Number of low-emission vehicles
23	Purchases of bicycles and micro-mobility vehicles	Number of bicycles and micro-mobility vehicles supported by measures and investments financed under the Fund.	Number of bicycles and micro-mobility vehicles
24	Additional alternative fuels infrastructure (refuelling/ recharging points)	Number of refuelling and recharging points (new or upgraded) for zero- and low- emission vehicles supported by measures and investments financed under the Fund, with an additional focus on remote areas. The terms 'alternative fuel', 'recharging point' and 'refuelling point' shall have the same meaning as the definitions of these terms in Regulation of the European Parliament and of the Council on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU of the European Parliament and of the Council. The indicator shall be collected and reported separately for (i) recharging points; and (ii) refuelling points. As part of the latter, (iii) hydrogen refuelling points shall be reported separately.	Number of refuelling and recharging points
25	Reduced or free public transport tickets	Number of users of public transport supported by measures and investments financed under the Fund. The indicator shall be collected and reported separately between (i) reduced; and (ii) free tickets.	Number of users
26	Additional shared mobility and mobility on demand solutions	Number of users of shared mobility and mobility on demand solutions supported by measures and investments financed under the Fund.	Number of users
27			Units
28	Dedicated cycling infrastructure supported	Length of dedicated cycling infrastructure newly built or significantly upgraded by projects supported under the Fund. Dedicated cycling infrastructure includes cycling facilities separated from roads for vehicular traffic or other parts of the same road by structural means (such as kerbs and barriers), cycling streets, cycling tunnels, etc. For cycling infrastructure with separated one-way lanes (e.g. on each side of a road), the length is measured as lane length.	Number of km
Result indicators			
29	Reduction of number of vulnerable transport users	Reduction of number of vulnerable transport users as a result of measures and investments financed under the Fund.	%

Number	Common indicator related to the Fund support	Explanation	Unit
30	Reduction of number of households in transport poverty	Reduction of number of households in transport poverty as a result of measures and investments financed under the Fund.	%
31	Reduction in greenhouse gas emissions in the road transport sector	Member States shall report on the reduction in greenhouse gas emissions in the road transport sector triggered by measures and investments financed under the Fund. The emissions in the road transport sector are defined as those covered by Chapter IVa of Directive 2003/87/EC (for the road transport sector, emission sources 1A3b as established in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories).	ktCO2e
Micro-enterprises (both buildings and road transport sectors)			
Context indicators			
32	Number of vulnerable micro-enterprises	In line with the definition in Article 2, point (11).	Number of micro-enterprises
Output indicators			
33	Number of vulnerable micro-enterprises that have benefitted from at least one structural measure reducing their emissions in the buildings sector and road transport sector	In line with Article 2, point (11), and Article 8(1). Only measures due to Fund support.	Number of micro-enterprises
Result indicators			
34	Reduction of number of vulnerable micro-enterprises	Reduction of number of vulnerable micro-enterprises as a result of measures and investments financed under the Fund.	%
Temporary direct income support			
Context indicators			
35	Share of the temporary direct income support in the total costs of the Social Climate Plans	In line with Article 4(3) and Article 10.	%
Output indicators			
36	Number of vulnerable households and vulnerable transport users that have received temporary direct income support	The indicator shall indicate the number of vulnerable households and vulnerable transport users that have received temporary direct income support, hence counting all final recipients of the temporary direct income support paid under the Fund. The indicator shall be collected and reported separately for vulnerable households and for the vulnerable transport users, in line with Article 2, points (10) and (12) and Article 4(3).	Number of vulnerable households (unit: households)
37			Number of vulnerable transport users (unit: households)

Number	Common indicator related to the Fund support	Explanation	Unit
Result indicators			
38	Average temporary direct income support per vulnerable household and vulnerable transport user	The indicator shall indicate the average amount of temporary direct income support received per vulnerable household and vulnerable transport user under the Fund.	EUR/household (buildings sector)
39			EUR/household (road transport sector)

ANNEX V

Template for Social Climate Plans referred to in Article 6(7)

Table of Contents

1. OVERVIEW AND PROCESS FOR ESTABLISHING THE SOCIAL CLIMATE PLAN 43
1.1. Executive summary 43
1.2. Overview of current policy situation 43
1.3. Public consultation process 43
2. DESCRIPTION OF THE MEASURES AND INVESTMENTS, MILESTONES AND TARGETS 44
2.1. COMPONENT [1][2]: [buildings sector][transport sector] 44
(i) Description of the component 44
(ii) Description of the measures and investments of the component 44
(iii) Do no significant harm 44
(iv) Milestones, targets and timeline 45
(v) Financing and costs 45
(vi) Justification for benefitting entities other than vulnerable households, vulnerable micro-enterprises and vulnerable transport users (if applicable) 45
(vii) Estimated total costs of the component 46
(viii) Scenario in the event of a later start of the emissions trading system 46
2.2. COMPONENT [3]: direct income support 46
(i) Description of the component 46
(ii) Description of the measures of the component 46
(iii) Milestones and targets for direct income support measures 47
(iv) Justification for the measures 47
(v) Costs of the measures 47
(vi) Justification for benefitting entities other than vulnerable households and vulnerable transport users (if applicable) 47
(vii) Estimated cost of the Plan for temporary direct income support component. 48
(viii) Scenario in the event of a later start of the emissions trading system 48
2.3. Technical assistance 48
2.4. Transfers to shared management programmes 48
2.5. Estimated total costs of the Plan 48
3. ANALYSIS AND OVERALL IMPACT 49
3.1. Definitions 49
3.2. Projected impact on vulnerable groups 49
3.3. Projected impact of the planned measures and investments 49
4. COMPLEMENTARITY, ADDITIONALITY AND IMPLEMENTATION OF THE PLAN 50
4.1. Monitoring and implementation of the Plan 50
4.2. Consistency with other initiatives 50
4.3. Complementarity of funding 50

4.4. Additionality 50
4.5. Geographic specificities 51
4.6. Prevention of corruption, fraud and conflicts of interests 51
4.7. Information, communication and visibility 51

1. OVERVIEW AND PROCESS FOR ESTABLISHING THE SOCIAL CLIMATE PLAN

1.1. Executive summary

The context of the green transition in the Member State with particular emphasis on the main challenges from the social impacts of the inclusion of greenhouse gas emissions from buildings and road transport sectors within the scope of Directive 2003/87/EC and how the Plan will respond to these challenges.

An overview table that sums up the main objectives of the Plan, together with the estimated total costs of the Plan, including the contribution from the Fund, the national contribution and resources from shared management programs to be transferred to the Fund, divided into the three areas of intervention: measures and investments for the buildings sector, for the road transport sector, and measures for direct income support, based on the template below:

Area of intervention	Total costs (absolute and % of total funding) by source of funding	Overview of main measures and investments planned	Objectives of the measures and investments	Impact of measures and investments	
				Reduction of vulnerable households and vulnerable transport users (unit: households)	CO2 emissions reduction
Buildings sector					
Road Transport sector					
Temporary direct income support					
Technical assistance (Article 8(3))					
Contribution to the Technical Support Instrument (Article 11(3))					
Contribution to the Member State's compartment in InvestEU (Article 11(3))					

1.2. Overview of current policy situation

Information on the current national energy and climate policies, how they are being applied in the national context, with a particular focus on buildings and transport sectors and in respect to the most vulnerable groups.

1.3. Public consultation process

A summary of the consultation process of local and regional authorities, social partners, civil society organisations, youth organisations, and other relevant stakeholders, as implemented in accordance with the national legal framework, for the preparation and, where available implementation of the Plan, covering the scope, type, and timing of consultations activities, as well as how the views of the stakeholders are reflected in the Plan.

2. DESCRIPTION OF THE MEASURES AND INVESTMENTS, MILESTONES AND TARGETS

Information for each component for the three areas of the Plan separately:

— buildings sector;

— road transport sector;

— temporary direct income support.

A component may include several sub-components focusing on a specific challenge or need. Each component or sub-component may include one or several closely linked or mutually dependent measures or investments.

2.1. COMPONENT [1][2]: [buildings sector][transport sector]

Information on the component:

(i) Description of the component

Summary box:

Summary box for Component [1][2] [buildings sector][transport sector]
Intervention area: [buildings sector][transport sector]
Objective:
Measures and investments:
Estimated total costs: EUR xx, of which
Costs requested to be covered under the Fund: EUR xx
Costs to be covered by the national contribution: EUR xx

(ii) Description of the measures and investments of the component

Detailed description of the component and its specific measures and investments, as well as their interlinkages and synergies, covering the following:

— Clear and evidence-based analysis of the existing challenges and how they are addressed by the measures and the investments;

— The nature, type and size of the measure or investment, which may include additional technical support measures in accordance with Article 11(4), indicating whether it is new or is an existing measure or investment intended to be extended with the support from the Fund;

— Detailed information on the objective of the measure or investment and about who and what is targeted by it; an explanation of how the measure and investment would contribute effectively to the achievement of the objectives of the Fund within the overall setting of a Member State's relevant policies, and how it will reduce fossil fuel dependency;

— Description of how the measure or investment is implemented (means of implementation), referring to the administrative capacity of the Member State at central, and where relevant regional and local levels, with an explanation on how the resources will be absorbed in a timely manner and how they are channelled to sub-national levels, if applicable;

— An explanation of how the measure or investment will aim to address gender inequality, if applicable;

— The timeline of the measure or investment; for support concerning low-emission vehicles, a timetable for gradually reducing that support.

(iii) Do no significant harm

Information on how measures and investments included in the component comply with the principle of 'do no significant harm' within the meaning of Article 17 of Regulation (EU) 2020/852. The Commission will provide technical guidance, pursuant to Article 6(5) of this Regulation.

(iv) Milestones, targets and timeline

Information on each milestone and target that will reflect the progress on implementing measures and investments of this component, as follows:

— why the specific milestone or target was chosen;

— what the milestone or target is measuring;

— how this will be measured, what methodology and source will be used, and how the proper achievement of the milestone or target will be objectively verified;

— what is the baseline (starting point) and what is the level or specific point to be reached;

— by when it will be reached (by quarter and year);

— who and which institution will be in charge of implementing, measuring and reporting.

Table containing milestones, targets and timeline for the components with the following information:

Seq. number	Measure/Investment name	Milestone or Target	Name of milestone/target	Qualitative indicators (milestones)	Quantitative indicators (targets)			Timeline for achievement		Description of each milestone and target
					Unit of measure/investment	Baseline	Goal	Quarter	Year	

(v) Financing and costs

Information and explanation on the estimated total costs of the component and for each measure and investment, backed up by appropriate justification, including:

— The methodology used, the underlying assumptions made (e.g. on unit costs, costs of inputs) and justification for these assumptions;

— The indicative comprehensive timetable within which these costs are expected to be incurred;

— Information on the national contribution to the total costs of the measures and investments;

— Any information on what financing from other Union instruments is or could be envisaged related to the same component;

— Any information on envisaged financing from private sources and which leverage level is targeted, if relevant;

— Justification on the plausibility and reasonability of the estimated costs, where necessary, taking into account national specificities.

(vi) Justification for benefitting entities other than vulnerable households, vulnerable micro-enterprises and vulnerable transport users (if applicable)

If support from the Fund is provided through public or private entities other than vulnerable households, vulnerable micro-enterprises, or vulnerable transport users, an explanation of what measures or investments those entities will enact and how those measures and investments will ultimately be to the benefit of vulnerable households, vulnerable micro-enterprises and vulnerable transport users;

If support from the Fund is provided through financial intermediaries, a description of the measures that the Member State intends to adopt to ensure that financial intermediaries pass on the entire benefit to the final recipients.

(vii) Estimated total costs of the component

Completion of the table on the estimated cost of measures and investments included in the component, in accordance with the template provided below:

Seq. number	Related measure (measure or investment)	Relevant time period		Estimated costs for which funding from the Fund is requested							
				Total requested	If available: split by year						
		From date	To date	Amount (mn EUR)	2026	2027	2028	2029	2030	2031	2032

(viii) Scenario in the event of a later start of the emissions trading system

A description and quantification of the necessary adjustments to the measures, investments, milestones, targets, the amount of national contribution and any other relevant element of the Plan resulting from the postponement of the start of the emissions trading system established pursuant to Chapter IVa of Directive 2003/87/EC in accordance with Article 30k of that Directive.

A separate version of the summary box, the table on milestones, targets and timeline and the table on estimated costs.

2.2. COMPONENT [3]: direct income support

Information on the Component for the direct income support:

(i) Description of the component

Summary box:

Summary box for Component 3 – direct income support
Intervention area: direct income support
Objective:
Measures:
Estimated total costs: EUR xx, of which
Costs requested to be covered under the Fund: EUR xx
Costs to be covered by the national contribution: EUR xx

(ii) Description of the measures of the component

A detailed description of the component and its specific measures, as well as their interlinkages and synergies, including:

— Clear and evidence-based analysis of the existing challenges and how they are addressed and the objectives of the support;

— The nature, type and size of the support;

— Detailed information on the final recipients of the support and the criteria used for their identification;

— The timeline for the decrease in direct income support in line with the timeline of the Fund, including a concrete end date for the support;

— An explanation of how the support will aim to address gender inequality, if applicable;

— Description of how the support is implemented;

— Information on the national contribution to the costs of the measures.

(iii) Milestones and targets for direct income support measures

Information on each milestone and target that will reflect the progress on implementing of this component, as follows:

— why the specific milestone or target was chosen;

— what the milestone or target is measuring;

— how this will be measured, what methodology and source will be used, and how the proper achievement of the milestone or target will be objectively verified;

— what is the baseline (starting point) and what is the level or specific point to be reached;

— by when it will be reached;

— who and which institution will be in charge of implementing, measuring and reporting.

Table containing milestones, targets and timeline for temporary direct income support measures, template provided below:

Seq. number	Measure	Milestone or Target	Name of milestone/target	Qualitative indicators (milestones)	Quantitative indicators (targets)			Timeline for achievement		Description of each milestone and target
					Unit of measure	Baseline	Goal	Quarter	Year	

(iv) Justification for the measures

Justification for the need of temporary direct income support based on the criteria laid out in Articles 6(1) and 8(2):

— Quantitative estimate and a qualitative explanation of how the measures in the Plan are expected to reduce energy poverty and transport poverty and the vulnerability of households and transport users to an increase of road transport and heating fuel prices;

— Justification on the proposed timeline of the diminishing temporary direct income support and the conditions when it no longer applies;

— Description of how the groups of recipients of temporary direct income support are also targeted by structural measures and investments to effectively lift them out of energy poverty and transport poverty, and description of the complementarity of temporary direct income support with structural measures and investments to support vulnerable households and vulnerable transport users.

(v) Costs of the measures

Information on the estimated total costs of the component, backed up by appropriate justification, including:

— The methodology used, the underlying assumptions made and justification for these assumptions;

— The comparative cost data on the actual cost, if similar support measures have been carried out in the past;

— Any information on what financing from other Union instruments is or could be foreseen related to the same support;

— Appropriate detailed justification on the plausibility and reasonability of the estimated costs, including any data or evidence used annexed to the Plan.

(vi) Justification for benefitting entities other than vulnerable households and vulnerable transport users (if applicable)

If the support from the Fund is provided through public or private entities other than vulnerable households, or vulnerable transport users, an explanation what kind of measures those entities will enact and how those measures will ultimately be to the benefit of vulnerable households, or vulnerable transport users.

If support from the Fund is provided through financial intermediaries, a description of the measures that the Member State intends to adopt to ensure that financial intermediaries pass on the entire benefit to the final recipients.

(vii) Estimated cost of the Plan for temporary direct income support component.

Completion of the table on estimated cost of support included in the component, template provided below:

Seq. number	Type of support	Relevant time period		Estimated costs for which funding from the Fund is requested							
				Total requested	If available: split by year						
		From date	To date	Amount (mn EUR)	2026	2027	2028	2029	2030	2031	2032

(viii) Scenario in the event of a later start of the emissions trading system

A description and quantification of the necessary adjustments to the measures, investments, milestones, targets, the amount of national contribution and any other relevant element of the Plan resulting from the postponement of the start of the emissions trading system established pursuant to Chapter IVa of Directive 2003/87/EC in accordance with Article 30k of that Directive.

A separate version of the summary box, the table on milestones, targets and timeline and the table on estimated costs.

2.3. Technical assistance

A description of the technical assistance actions that will be included for the effective administration and implementation of the measures and investments set out in the Plan, in accordance with Article 8(3), including:

— the nature, type and size of the technical assistance actions;

— the estimated cost of the technical assistance actions.

2.4. Transfers to shared management programmes

If resources are intended to be transferred from the Fund to funds under shared management pursuant to Article 11(2), indication of which programmes these resources will be transferred to and under which timeline, and indication of how the measures and investments to be implemented under those programmes would comply with the objectives referred to in Article 3, including whether they fall under the measures and investments set out in Article 8.

2.5. Estimated total costs of the Plan

Estimated total costs of the Plan, including any amounts made available for additional technical support under Article 11(4) of this Regulation, the amount of the cash contribution for the purpose of the Member State compartment pursuant to the relevant provisions of Regulation (EU) 2021/523 and any amount made available for additional technical assistance under Article 8(3) of this Regulation.

An indication of the national contribution to the total costs of its plan, including an indication of any resources intended to be transferred to the Fund from shared management programmes pursuant to Article 11(1) of this Regulation and any resources intended to be transferred from the Fund to shared management programmes pursuant to Article 11(2) of this Regulation.

A description of how the costs are in line with the principle of cost efficiency and commensurate to the expected impact of the Plan.

Completion of the table summarising the cost of the Fund by source of funding, template provided below:

Total costs of Social Climate Plan	Base case	In case of Article 30k Directive 2003/87/EC
ESTIMATED TOTAL COSTS OF THE PLAN, of which	EUR XXX	EUR XXX
Covered under the Fund	EUR XXX	EUR XXX
National contribution	EUR XXX	EUR XXX
Transfers from shared management programmes	EUR XXX	EUR XXX
(Transfers to shared management programmes)	-EUR XXX	-EUR XXX

3. ANALYSIS AND OVERALL IMPACT

3.1. Definitions

An explanation of how the definitions of energy poverty and transport poverty are to be applied at national level.

3.2. Projected impact on vulnerable groups

An estimate of the likely effects of the increase in prices resulting from the emissions trading system established pursuant to Chapter IVa of Directive 2003/87/EC on households, and in particular on incidence of energy poverty and transport poverty, and on micro-enterprises, comprising in particular an estimated number of, and the identification of, vulnerable households, vulnerable micro-enterprises and vulnerable transport users. These effects are to be analysed at the appropriate territorial level as established by each Member State, taking into account national specificities and elements such as access to public transport and basic services and identifying the areas mostly affected.

A description of the methodology used in the estimates, while making sure that the estimates are calculated with a sufficient level of regional disaggregation.

3.3. Projected impact of the planned measures and investments

An estimate of the projected impacts of the measures and investments planned in section 2 on greenhouse gas emissions, energy poverty and transport poverty, with comparison to the baseline described above.

A description of the methodology used in the estimates.

Qualitative and quantitative tables on the impact of the Plan, template provided below:

Component	Description of the expected impacts of the component on: (mark include relevant quantitative indicators)				
	Energy efficiency	Building renovation	Zero- and low-emission mobility and transport	Greenhouse gas emission reductions	Reduction in the number of vulnerable households and vulnerable transport users (unit: households)
Overall plan					
Buildings sector					
Road transport sector					

Component	Quantification of the impact (if available) i.e. % difference from policy neutral baseline					
	Short-term (3 years ahead)			Medium-term (end of the plan)		
	Greenhouse gas emissions	Households in energy poverty	Households in transport poverty	Greenhouse gas emissions	Households in energy poverty	Households in transport poverty
Overall plan						
Buildings sector						
Road transport sector						

Qualitative and quantitative table on the expected impact of the temporary direct income support measures on the reduction of the number of vulnerable households and vulnerable transport users as well as households in energy poverty and in transport poverty, template provided below:

Component: direct income support	
Reduction in the number of vulnerable households and vulnerable transport users	Description of the expected impacts
	Estimate of expected impacts; unit: households
Reduction in the number of households in energy poverty and in transport poverty	Description of the expected impacts
	Estimate of expected impacts; unit: households

4. COMPLEMENTARITY, ADDITIONALITY AND IMPLEMENTATION OF THE PLAN

This part concerns the whole Plan. The various criteria set out below need to be justified for the Plan as a whole.

4.1. Monitoring and implementation of the Plan

Explanation on how the Member State intends to implement the proposed measures and investments, focusing on the arrangements and timetable for monitoring and implementation including, where relevant, measures necessary for compliance with Article 21.

4.2. Consistency with other initiatives

Explanation on how the Plan is consistent with the information included and the commitments made by the Member State under other relevant plans and funds, and the interplay among the different plans going forward, as set out in Article 6(3) and Article 16(3), point (b)(iii).

4.3. Complementarity of funding

Information on existing or planned financing of measures and investments from other Union, international, public or, where relevant, private sources which contribute to the measures and investments set out in the Plan, including on temporary direct income support, pursuant to Article 6(1), point (c).

4.4. Additionality

Explanation and justification of how the new or existing measures or investments are additional and do not substitute recurring national budgetary expenditure, pursuant to Article 13(2), including such explanation and justification with regard to measures and investments included in the Plan in accordance with Article 4(5).

4.5. Geographic specificities

Explanation of how geographic specificities, such as islands, outermost regions and territories, rural or remote areas, less accessible peripheries, mountainous areas or areas lagging behind, have been taken into account by the Plan.

4.6. Prevention of corruption, fraud and conflicts of interests

A system to prevent, detect and correct corruption, fraud and conflicts of interests, when using the funds provided under the Fund, and the arrangements that aim to avoid double funding from the Fund and other Union programmes in accordance with Article 21 and Annex III, including funds provided through public or private entities other than vulnerable households, vulnerable micro-enterprises and vulnerable transport users in accordance with Article 9.

4.7. Information, communication and visibility

Compliance with the provisions set out in Article 23 referring to public access to data, indicating the website in which the data will be published, as well as the information, communication, and visibility measures.

Outline of the intended national communication strategy aimed at ensuring public awareness of the Union funding.

REGULATION (EU) 2023/956 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 May 2023

establishing a carbon border adjustment mechanism

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

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

Whereas:

(1) In its communication of 11 December 2019 entitled 'The European Green Deal' (the 'European Green Deal'), the Commission set out a new growth strategy. That strategy aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where there are no net emissions (emissions after deduction of removals) of greenhouse gases ('greenhouse gas emissions') at the latest by 2050 and where economic growth is decoupled from the use of resources. The European Green Deal aims to protect, conserve and enhance the Union's natural capital, and to protect the health and well-being of citizens from environment-related risks and impacts. At the same time, that transformation must be just and inclusive, leaving no one behind. The Commission also announced in its communication of 12 May 2021 entitled 'Pathway to a Healthy Planet for All, EU Action Plan: Towards Zero Pollution for Air, Water and Soil' the promotion of relevant instruments and incentives to better implement the 'polluter pays' principle set out in Article 191(2) of the Treaty on the Functioning of the European Union (TFEU) and thus complete the phasing out of 'pollution for free' with a view to maximising synergies between decarbonisation and the zero-pollution ambition.

(2) The Paris Agreement ([4]), adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the 'Paris Agreement'), entered into force on 4 November 2016. The Parties to the Paris Agreement 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. Under the Glasgow Climate Pact, adopted on 13 November 2021, the Conference of the Parties to the UNFCCC, serving as the meeting of the Parties to the Paris Agreement, also recognised that limiting the increase in the global average temperature to 1,5 °C above pre-industrial levels would significantly reduce the risks and impacts of climate change, and committed to strengthening the 2030 targets by the end of 2022 to close the ambition gap.

([1]) OJ C 152, 6.4.2022, p. 181.
([2]) OJ C 301, 5.8.2022, p. 116.
([3]) Position of the European Parliament of 18 April 2023 (not yet published in the Official Journal) and decision of the Council of 25 April 2023.
([4]) OJ L 282, 19.10.2016, p. 4.

(3) Tackling climate and other environment-related challenges and reaching the objectives of the Paris Agreement are at the core of the European Green Deal. The value of the European Green Deal has 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.

(4) The Union committed to reducing the Union's economy-wide net greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030, as set out in the submission to the UNFCCC on behalf of the European Union and its Member States on the update of the nationally determined contribution of the European Union and its Member States.

(5) Regulation (EU) 2021/1119 of the European Parliament and of the Council ([5]) has enshrined in legislation the objective of economy-wide climate neutrality at the latest by 2050. That Regulation also establishes a binding Union domestic reduction target for net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % compared to 1990 levels by 2030.

(6) The Special Report of the Intergovernmental Panel on Climate Change (IPCC) of 2018 on the impacts of global temperature increases of 1,5 °C above pre-industrial levels and related global greenhouse gas emission pathways provides a strong scientific basis for tackling climate change and illustrates the need to step up climate action. That report confirms that, in order to reduce the likelihood of extreme weather events, greenhouse gas emissions need to be urgently reduced, and that climate change needs to be limited to a global temperature increase of 1,5 °C. Moreover, if mitigation pathways, consistent with limiting global warming to 1,5 °C above pre-industrial levels, are not rapidly activated, much more expensive and complex adaptation measures will have to be taken to avoid the impacts of higher levels of global warming. The contribution of Working Group I to the Sixth Assessment Report of the IPCC entitled 'Climate Change 2021: The Physical Science Basis' recalls that climate change is already affecting every region on Earth and projects that in the coming decades climate change will increase in all regions. That report stresses that, unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting warming to close to 1,5 °C or even 2 °C will be beyond reach.

(7) The Union has been pursuing an ambitious policy on climate action and has put in place a regulatory framework to achieve its 2030 target for greenhouse gas emissions reduction. The legislation implementing that target consists, inter alia, of Directive 2003/87/EC of the European Parliament and of the Council ([6]), which establishes a system for greenhouse gas emission allowance trading within the Union ('EU ETS') and delivers harmonised pricing of greenhouse gas emissions at Union level for energy-intensive sectors and subsectors, of Regulation (EU) 2018/842 of the European Parliament and of the Council ([7]), which introduces national targets for the reduction of greenhouse gas emissions by 2030, and of Regulation (EU) 2018/841 of the European Parliament and of the Council ([8]), which requires Member States to compensate greenhouse gas emissions from land use with the removal of greenhouse gases from the atmosphere.

(8) While the Union has substantially reduced its domestic greenhouse gas emissions, the greenhouse gas emissions embedded in imports to the Union have been increasing, thereby undermining the Union's efforts to reduce its global greenhouse gas emissions footprint. The Union has a responsibility to continue playing a leading role in global climate action.

([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).

([6]) 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, 25.10.2003, p. 32).

([7]) 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).

([8]) 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).

(9) As long as a significant number of the Union's international partners have policy approaches that do not achieve the same level of climate ambition, there is a risk of carbon leakage. Carbon leakage occurs if, for reasons of costs related to climate policies, businesses in certain industry sectors or subsectors transfer production to other countries or imports from those countries replace equivalent products that are less intensive in terms of greenhouse gas emissions. Such situations could lead to an increase in the total global emissions, thus jeopardising the reduction of greenhouse gas emissions that is urgently needed if the world is to keep the increase in global average temperature to 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. As the Union increases its climate ambition, that risk of carbon leakage could undermine the effectiveness of Union emission reduction policies.

(10) The initiative for a carbon border adjustment mechanism (the 'CBAM') is part of the 'Fit for 55' legislative package. The CBAM is to serve as an essential element of the Union's toolbox for meeting the objective of a climate-neutral Union at the latest by 2050 in line with the Paris Agreement by addressing the risk of carbon leakage that results from the Union's increased climate ambition. The CBAM is expected to also contribute to promoting decarbonisation in third countries.

(11) Existing mechanisms for addressing the risk of carbon leakage in sectors or subsectors where such risk exists consist of the transitional free allocation of EU ETS allowances and financial measures to compensate for indirect emission costs incurred from greenhouse gas emission costs passed on in electricity prices. Those mechanisms are set out in Article 10a(6) and Article 10b of Directive 2003/87/EC, respectively. The free allocation of EU ETS allowances at the level of best performers has been a policy instrument for certain industrial sectors to address the risk of carbon leakage. However, compared to full auctioning, such free allocation weakens the price signal that the system provides and thus affects the incentives for investment into further reducing greenhouse gas emissions.

(12) The CBAM seeks to replace those existing mechanisms by addressing the risk of carbon leakage in a different way, namely by ensuring equivalent carbon pricing for imports and domestic products. To ensure a gradual transition from the current system of free allowances to the CBAM, the CBAM should be progressively phased in while free allowances in sectors covered by the CBAM are phased out. The combined and transitional application of EU ETS allowances allocated free of charge and of the CBAM should in no case result in more favourable treatment for Union goods compared to goods imported into the customs territory of the Union.

(13) The carbon price is rising, and companies need long-term visibility, predictability and legal certainty to make their decisions on investment in the decarbonisation of industrial processes. Therefore, in order to strengthen the legal framework for fighting carbon leakage, a clear pathway for gradual further extension of the scope of the CBAM to products, sectors and subsectors at risk of carbon leakage should be established.

(14) While the objective of the CBAM is to prevent the risk of carbon leakage, this Regulation would also encourage producers from third countries to use technologies that are more efficient in reducing greenhouse gases so that fewer emissions are generated. For that reason, the CBAM is expected to effectively support the reduction of greenhouse gas emissions in third countries.

(15) As an instrument to prevent carbon leakage and reduce greenhouse gas emissions, the CBAM should ensure that imported products are subject to a regulatory system that applies carbon costs equivalent to those borne under the EU ETS, resulting in a carbon price that is equivalent for imports and domestic products. The CBAM is a climate measure which should support the reduction of global greenhouse gas emissions and prevent the risk of carbon leakage, while ensuring compatibility with World Trade Organization law.

(16) This Regulation should apply to goods imported into the customs territory of the Union from third countries, except where their production has already been subject to the EU ETS through its application to third countries or territories or to a carbon pricing system that is fully linked with the EU ETS.

(17) With a view to ensuring that the transition to a carbon-neutral economy is continuously accompanied by economic and social cohesion, account should be taken, upon future revision of this Regulation, of the special characteristics and constraints of the outermost regions referred to in Article 349 TFEU as well as of island States which are part of the customs territory of the Union, without undermining the integrity and coherence of the Union legal order, including the internal market and common policies.

(18) With a view to preventing the risk of carbon leakage in offshore installations, this Regulation should apply to goods, or processed products from those goods resulting from an inward processing procedure, that are brought to an artificial island, a fixed or floating structure, or any other structure on the continental shelf or in the exclusive economic zone of a Member State where that continental shelf or exclusive economic zone is adjacent to the customs territory of the Union. Implementing powers should be conferred on the Commission to lay down detailed conditions for the application of the CBAM to such goods.

(19) The greenhouse gas emissions that should be subject to the CBAM should correspond to those greenhouse gas emissions covered by Annex I to Directive 2003/87/EC, namely carbon dioxide ('CO_2') as well as, where relevant, nitrous oxide and perfluorocarbons. The CBAM should initially apply to direct emissions of those greenhouse gases from the time of production of goods until the import of those goods into the customs territory of the Union, mirroring the scope of the EU ETS to ensure coherence. The CBAM should also apply to indirect emissions. Those indirect emissions are the emissions arising from the generation of electricity used to produce the goods to which this Regulation applies. The inclusion of indirect emissions would further enhance the environmental effectiveness of the CBAM and its ambition to contribute to fighting climate change. Indirect emissions should, however, not be taken into account initially for the goods in respect of which financial measures apply in the Union that compensate for indirect emissions costs incurred from greenhouse gas emission costs passed on in electricity prices. Those goods are identified in Annex II to this Regulation. Future revisions of the EU ETS in Directive 2003/87/EC and, in particular, revisions of the compensation measures of the indirect costs should be appropriately reflected as regards the scope of application of the CBAM. During the transitional period, data should be collected for the purpose of further specifying the methodology for the calculation of indirect emissions. That methodology should take into account the quantity of electricity used for the production of the goods listed in Annex I to this Regulation, as well as the country of origin, generation source, and the emission factors related to that electricity. The specific methodology should be further specified in order to achieve the most appropriate way to prevent carbon leakage and ensure the environmental integrity of the CBAM.

(20) The EU ETS and the CBAM share a common objective of pricing greenhouse gas emissions embedded in the same sectors and goods through the use of specific allowances or certificates. Both systems have a regulatory nature and are justified by the need to curb greenhouse gas emissions, in line with the binding environmental target under Union law, set out in Regulation (EU) 2021/1119, to reduce the Union's net greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030 and the objective to reach economy-wide climate neutrality at the latest by 2050.

(21) While the EU ETS sets the total number of allowances issued (the 'cap') on the greenhouse gas emissions from activities within its scope and allows trading of allowances (the 'cap and trade system'), the CBAM should not establish quantitative limits on imports, so that trade flows are not restricted. Moreover, while the EU ETS applies to installations in the Union, the CBAM should apply to certain goods imported into the customs territory of the Union.

(22) The CBAM system has some specific features when compared to the EU ETS, including with respect to the calculation of the price of CBAM certificates, the possibilities to trade CBAM certificates and their period of validity. Those features are due to the need to preserve the effectiveness of the CBAM as a measure to prevent carbon leakage over time. They also ensure that the management of the CBAM system is not excessively burdensome, both in terms

of obligations imposed on operators and administrative resources, while at the same time preserving a level of flexibility available to operators equivalent to that under the EU ETS. Ensuring such a balance is of particular importance to small and medium-sized enterprises (SMEs) concerned.

(23) In order to preserve its effectiveness as a measure to prevent carbon leakage, the CBAM needs to reflect closely the EU ETS price. While on the EU ETS market the price of allowances released onto the market is determined through auctions, the price of CBAM certificates should reasonably reflect the price of such auctions through averages calculated on a weekly basis. Such weekly average prices reflect closely the price fluctuations of the EU ETS and allow a reasonable margin for importers to take advantage of the price changes of the EU ETS while also ensuring that the system remains manageable for administrative authorities.

(24) Under the EU ETS, the cap determines the supply of emission allowances and provides certainty about maximum emissions of greenhouse gases. The carbon price is determined by the balance of that supply against the market demand. Scarcity is necessary for there to be a price incentive. This Regulation is not intended to impose a cap on the number of CBAM certificates available to importers; if importers were able to carry forward and trade CBAM certificates, that ability could have resulted in situations where the price for CBAM certificates would no longer reflect the evolution of the price in the EU ETS. Such a situation would weaken the incentive for decarbonisation, favouring carbon leakage and impairing the overarching climate objective of the CBAM. It could also result in different prices for operators from different countries. The limits on the possibilities to trade CBAM certificates and to carry them forward are therefore justified by the need to avoid undermining the effectiveness and climate objective of the CBAM and to ensure even-handed treatment of operators from different countries. However, in order to preserve the possibility for importers to optimise their costs, this Regulation should provide for a system where authorities can repurchase a certain amount of excess certificates from importers. Such amount should be set at a level which allows a reasonable margin for importers to leverage their costs over the period of validity of the certificates while preserving the overall price transmission effect, ensuring that the environmental objective of the CBAM is preserved.

(25) Given that the CBAM would apply to imports of goods into the customs territory of the Union rather than to installations, certain adaptations and simplifications would also need to apply in the CBAM. One such simplification should be the introduction of a simple and accessible declarative system whereby importers report the total verified greenhouse gas emissions embedded in goods imported in a given calendar year. A different timing compared to the compliance cycle of the EU ETS should also be applied to avoid any potential bottleneck that might result from obligations for accredited verifiers under this Regulation and Directive 2003/87/EC.

(26) Member States should impose penalties for infringements of this Regulation and ensure that such penalties are enforced. More specifically, the penalty amount for the failure of an authorised CBAM declarant to surrender CBAM certificates should be identical to the amount pursuant to Article 16(3) and (4) of Directive 2003/87/EC. However, where the goods have been introduced into the Union by a person other than an authorised CBAM declarant without complying with the obligations under this Regulation, the amount of those penalties should be higher in order to be effective, proportionate and dissuasive, also taking into account the fact that such person is not obliged to surrender CBAM certificates. The imposition of penalties under this Regulation is without prejudice to penalties that may be imposed under Union or national law for the infringement of other relevant obligations, in particular those related to customs rules.

(27) While the EU ETS applies to certain production processes and activities, the CBAM should target the corresponding imports of goods. That requires clearly identifying imported goods by means of their classification in the Combined Nomenclature ('CN') set out in Council Regulation (EEC) No 2658/87 ([9]) and linking them to embedded emissions.

([9]) Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

(28) The goods or processed products covered by the CBAM should reflect the activities covered by the EU ETS as that system is based on quantitative and qualitative criteria linked to the environmental objective of Directive 2003/87/EC and is the most comprehensive greenhouse gas emissions regulatory system in the Union.

(29) Defining the scope of the CBAM in a way that reflects the activities covered by the EU ETS would also contribute to ensuring that imported products are granted a treatment that is not less favourable than that accorded to like products of domestic origin.

(30) Whilst the ultimate objective of the CBAM is one of broad product coverage, it would be prudent to start with a selected number of sectors with relatively homogeneous goods where there is a risk of carbon leakage. Union sectors deemed to be at risk of carbon leakage are listed in Commission Delegated Decision (EU) 2019/708 ([10]).

(31) The goods, to which this Regulation should apply, should be selected after careful analysis of their relevance in terms of cumulated greenhouse gas emissions and risk of carbon leakage in the corresponding EU ETS sectors, while limiting complexity and administrative burden on the operators concerned. In particular, the selection should take into account basic materials and basic products covered by the EU ETS with the objective of ensuring that emissions embedded in emission-intensive products imported into the Union are subject to a carbon price that is equivalent to that applied to Union products, and of mitigating the risk of carbon leakage. The relevant criteria to narrow the selection should be: first, relevance of sectors in terms of emissions, namely whether the sector is one of the largest aggregate emitters of greenhouse gas emissions; second, the sector's exposure to significant risk of carbon leakage, as defined pursuant to Directive 2003/87/EC; and third, the need to balance broad product coverage in terms of greenhouse gas emissions, while limiting complexity and administrative burden.

(32) The use of the first criterion would allow the listing of the following industrial sectors in terms of cumulated emissions: iron and steel, refineries, cement, aluminium, organic basic chemicals, hydrogen and fertilisers.

(33) Certain sectors listed in Delegated Decision (EU) 2019/708 should not, however, be addressed in this Regulation at this stage, due to their particular characteristics.

(34) In particular, organic chemicals should not be included in the scope of this Regulation due to technical limitations that at the time of the adoption of this Regulation do not allow to define clearly the embedded emissions of such imported goods. For those goods the applicable benchmark under the EU ETS is a basic parameter, which does not allow for an unambiguous allocation of emissions embedded in individual imported goods. A more targeted allocation to organic chemicals requires more data and analysis.

(35) Similar technical constraints apply to refinery products, for which it is not possible to unambiguously assign greenhouse gas emissions to individual output products. At the same time, the relevant benchmark in the EU ETS does not directly relate to specific products, such as petrol, diesel or kerosene, but to all refinery output.

(36) Aluminium products should be included in the CBAM as they are highly exposed to carbon leakage. Moreover, in several industrial applications they are in direct competition with steel products because of characteristics which closely resemble those of steel products.

(37) At the time of the adoption of this Regulation, imports of hydrogen into the Union are relatively low. However, that situation is expected to change significantly in the coming years as the Union's 'Fit for 55' package promotes the use of renewable hydrogen. For the decarbonisation of industry as a whole, the demand for renewable hydrogen will increase, and consequently lead to non-integrated production processes in downstream products where hydrogen is a precursor. The inclusion of hydrogen in the scope of the CBAM is the appropriate means to further foster the decarbonisation of hydrogen.

([10]) Commission Delegated Decision (EU) 2019/708 of 15 February 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030 (OJ L 120, 8.5.2019, p. 20).

(38) Similarly, certain products should be included in the scope of the CBAM despite their low level of embedded emissions occurring during their production process, as their exclusion would increase the likelihood of circumventing the inclusion of steel products in the CBAM by modifying the pattern of trade towards downstream products.

(39) Conversely, this Regulation should not initially apply to certain products the production of which does not entail meaningful emissions such as ferrous scrap, some ferro-alloys and certain fertilisers.

(40) The importation of electricity should be included in the scope of this Regulation, as that sector is responsible for 30 % of the total greenhouse gas emissions in the Union. The Union's increased climate ambition would widen the gap in carbon costs between electricity production within the Union and third countries. That gap, combined with the progress in connecting the Union electricity grid to that of its neighbours, would increase the risk of carbon leakage due to the increase in imports of electricity, a significant part of which is produced by coal-fired power plants.

(41) In order to avoid excessive administrative burden as regards competent national administrations and importers, it is appropriate to specify the limited cases in which the obligations under this Regulation should not apply. That *de minimis* provision, however, is without prejudice to a continued application of the provisions under Union or national law that are necessary to ensure compliance with the obligations under this Regulation as well as, in particular, with customs legislation, including the prevention of fraud.

(42) As importers of goods covered by this Regulation should not have to fulfil their obligations under this Regulation at the time of importation, specific administrative measures should be applied to ensure that such obligations are fulfilled at a later stage. Therefore, importers should only be entitled to import goods that are subject to this Regulation after they have been granted an authorisation by competent authorities.

(43) The customs authorities should not allow the importation of goods by any person other than an authorised CBAM declarant. In accordance with Articles 46 and 48 of Regulation (EU) No 952/2013 of the European Parliament and of the Council ([11]), the customs authorities are entitled to carry out checks on the goods, including with respect to the identification of the authorised CBAM declarant, the eight-digit CN code, the quantity and the country of origin of the imported goods, the date of declaration and the customs procedure. The Commission should include the risks relating to the CBAM in the establishment of the common risk criteria and standards pursuant to Article 50 of Regulation (EU) No 952/2013.

(44) During a transitional period, the customs authorities should inform customs declarants of the obligation to report information, so as to contribute to the gathering of information as well as to awareness on the need to request the status of authorised CBAM declarants where applicable. Such information should be communicated by the customs authorities in an appropriate manner to ensure that customs declarants are made aware of such obligation.

(45) The CBAM should be based on a declarative system in which an authorised CBAM declarant, who could represent more than one importer, would submit annually a declaration of the embedded emissions in the goods imported into the customs territory of the Union and would surrender the number of CBAM certificates which correspond to those declared emissions. The first CBAM declaration, in respect of the calendar year 2026, should be submitted by 31 May 2027.

(46) An authorised CBAM declarant should be allowed to claim a reduction in the number of CBAM certificates to be surrendered corresponding to the carbon price already effectively paid in the country of origin for the declared embedded emissions.

([11]) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

(47) The declared embedded emissions should be verified by a person accredited by a national accreditation body appointed in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council ([12]) or pursuant to Commission Implementing Regulation (EU) 2018/2067 ([13]).

(48) The CBAM should allow operators of production installations in third countries to register in the CBAM registry and to make their verified embedded emissions from production of goods available to authorised CBAM declarants. An operator should be able to choose that its name, address and contact information in the CBAM registry are not made accessible to the public.

(49) CBAM certificates would differ from EU ETS allowances for which daily auctioning is an essential feature. The need to set a clear price for CBAM certificates would make daily publication excessively burdensome and confusing for operators, as daily prices risk becoming obsolete upon publication. Thus, the publication of CBAM prices on a weekly basis would more accurately reflect the pricing trend of EU ETS allowances released onto the market and pursue the same climate objective. The calculation of the price of CBAM certificates should therefore be set on the basis of a longer timeframe, namely on a weekly basis, than on the timeframe established by the EU ETS, namely on a daily basis. The Commission should be tasked with calculating and publishing that average price.

(50) In order to give authorised CBAM declarants flexibility in complying with their obligations under this Regulation and allow them to benefit from fluctuations in the price of EU ETS allowances, CBAM certificates should be valid for a limited period of time from the date of their purchase. The authorised CBAM declarant should be allowed to re-sell a portion of the certificates bought in excess. With a view to surrendering CBAM certificates, the authorised CBAM declarant should accumulate the number of certificates required during the year which corresponds with the thresholds set at the end of each quarter.

(51) The physical characteristics of electricity as a product justify a slightly different design within the CBAM as compared to other goods. Default values should be used under clearly specified conditions, and it should be possible for authorised CBAM declarants to claim the calculation of their obligations under this Regulation based on actual emissions. Electricity trade is different from trade in other goods, in particular because it is traded through interconnected electricity grids, using power exchanges and specific forms of trading. Market coupling is a densely regulated form of electricity trade which enables the aggregation of bids and offers across the Union.

(52) To avoid the risk of circumvention and improve the traceability of actual CO_2 emissions from import of electricity and its use in goods, the calculation of actual emissions should only be permitted under certain strict conditions. In particular, it should be necessary to demonstrate a firm nomination of the allocated interconnection capacity and that there is a direct contractual relation between the purchaser and the producer of the renewable electricity, or between the purchaser and the producer of electricity having lower than default value emissions.

(53) To reduce the risk of carbon leakage, the Commission should take action to address practices of circumvention. The Commission should evaluate the risk of such circumvention in all sectors to which this Regulation applies.

(54) Contracting Parties to the Treaty establishing the Energy Community concluded by Council Decision 2006/500/EC ([14]) and, Parties to Association Agreements, including Deep and Comprehensive Free Trade Areas, are committed to decarbonisation processes that should eventually result in the adoption of carbon pricing mechanisms similar or equivalent to the EU ETS or in their participation in the EU ETS.

([12]) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

([13]) Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 334, 31.12.2018, p. 94).

([14]) Council Decision 2006/500/EC of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty (OJ L 198, 20.7.2006, p. 15).

(55) The integration of third countries into the Union electricity market is an important factor for those countries to accelerate their transition to energy systems with high shares of renewable energies. Market coupling for electricity, as set out in Commission Regulation (EU) 2015/1222 ([15]), enables third countries to better integrate electricity from renewable energies into the electricity market, to exchange such electricity in an efficient manner within a wider area, balancing supply and demand with the larger Union market, and to reduce the CO_2 emission intensity of their electricity generation. Integration of third countries into the Union electricity market also contributes to the security of electricity supplies in those countries and in the neighbouring Member States.

(56) Once the electricity markets of third countries are closely integrated into that of the Union through market coupling, technical solutions should be found to ensure the application of the CBAM to electricity exported from those countries into the customs territory of the Union. If technical solutions cannot be found, third countries whose markets are coupled with that of the Union should benefit from a time-limited exemption from the CBAM until 2030 with regard solely to the export of electricity, provided that certain conditions are met. Those third countries should, however, develop a roadmap and commit to implementing a carbon pricing mechanism providing for a price that is equivalent to the EU ETS, and should commit to achieving carbon neutrality at the latest by 2050 as well as to align with Union legislation in the areas of environment, climate, competition and energy. Such exemption should be withdrawn at any time if there are reasons to believe that the country in question does not fulfil its commitments or if it has not adopted by 2030 an emissions trading system equivalent to the EU ETS.

(57) Transitional provisions should apply for a limited period of time. For that purpose, the CBAM should apply without financial adjustment, with the objective of facilitating its smooth roll-out, thereby reducing the risk of disruptive impacts on trade. Importers should have to report on a quarterly basis the embedded emissions in goods imported during the previous quarter of the calendar year, setting out direct and indirect emissions as well as any carbon price effectively paid abroad. The last CBAM report, which is the report to be submitted for the last quarter of 2025, should be submitted by 31 January 2026.

(58) To facilitate and ensure a proper functioning of the CBAM, the Commission should provide support to the competent authorities in carrying out their functions and duties under this Regulation. The Commission should coordinate, issue guidelines and support the exchange of best practices.

(59) In order to apply this Regulation in a cost-efficient way, the Commission should manage the CBAM registry containing data on the authorised CBAM declarants, operators and installations in third countries.

(60) A common central platform should be established for the sale and repurchase of CBAM certificates. With a view to overseeing the transactions on the common central platform, the Commission should facilitate the exchange of information and the cooperation between competent authorities, as well as between those authorities and the Commission. Furthermore, a rapid flow of information between the common central platform and the CBAM registry should be established.

(61) To contribute to the effective application of this Regulation, the Commission should carry out risk-based controls and should review the content of CBAM declarations accordingly.

(62) In order to further enable a uniform application of this Regulation, the Commission should, as a preliminary input, make available to the competent authorities its own calculations regarding the CBAM certificates to be surrendered, on the basis of its review of the CBAM declarations. Such preliminary input should be provided for indicative purposes only and without prejudice to the definitive calculation to be made by the competent authority. In particular, no right of appeal or other remedial measure should be possible against such preliminary input made by the Commission.

([15]) Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

(63) Member States should also be able to carry out reviews of individual CBAM declarations for enforcement purposes. The conclusions of the reviews of individual CBAM declarations should be shared with the Commission. Those conclusions should also be made available to other competent authorities via the CBAM registry.

(64) Member States should be responsible for correctly establishing and collecting revenues arising from the application of this Regulation.

(65) The Commission should regularly evaluate the application of this Regulation and report to the European Parliament and to the Council. Those reports should in particular focus on possibilities to enhance climate actions towards reaching the objective of a climate-neutral Union at the latest by 2050. The Commission should, as part of that reporting, collect the information necessary with a view to the further extension of the scope of this Regulation to embedded indirect emissions in the goods listed in Annex II as soon as possible, as well as to other goods and services that could be at risk of carbon leakage, such as downstream products, and to developing methods of calculating embedded emissions based on the environmental footprint methods, as set out in Commission Recommendation 2013/179/EU ([16]). Those reports should also contain an assessment of the impact of the CBAM on carbon leakage, including in relation to exports, and its economic, social and territorial impact throughout the Union, taking into account also the special characteristics and constraints of outermost regions referred to in Article 349 TFEU and of island States which are part of the customs territory of the Union.

(66) Practices of circumvention of this Regulation should be monitored and addressed by the Commission, including where operators could slightly modify their goods without altering their essential characteristics, or artificially split shipments, in order to avoid the obligations under this Regulation. Situations where goods would be sent to a third country or region prior to their importation to the Union market, with the aim of avoiding the obligations under this Regulation, or where operators in third countries would export their less greenhouse gas emissions intensive products to the Union and keep their more greenhouse gas emissions intensive products for other markets, or reorganisation by exporters or producers of their patterns and channels of sale and production, or any other kinds of dual production and dual sale practices, with the aim of avoiding the obligations under this Regulation, should also be monitored.

(67) In full respect of the principles set out in this Regulation, work on extending the scope of this Regulation should have the aim of including, by 2030, all the sectors covered by Directive 2003/87/EC. Therefore, when reviewing and evaluating the application of this Regulation, the Commission should maintain a reference to this timeline, and give priority to including within the scope of this Regulation greenhouse gas emissions embedded in goods that are most exposed to carbon leakage and that are most carbon intensive, as well as in downstream products that contain a significant share of at least one of the goods within the scope of this Regulation. Should the Commission not submit a legislative proposal for such an extension, by 2030, of the scope of this Regulation, it should inform the European Parliament and the Council of the reasons and take the necessary steps towards achieving the objective of including, as soon as possible, all the sectors covered by Directive 2003/87/EC.

(68) The Commission should also present a report to the European Parliament and to the Council on the application of this Regulation two years from the end of the transitional period, and every two years thereafter. The timing for the submission of the reports should follow the timetables on the functioning of the carbon market pursuant to Article 10(5) of Directive 2003/87/EC. The reports should contain an assessment of the impacts of the CBAM.

(69) In order to allow for a rapid and effective response to unforeseeable, exceptional and unprovoked circumstances that have destructive consequences on the economic and industrial infrastructure of one or more third countries subject to the CBAM, the Commission should submit to the European Parliament and to the Council a legislative proposal, as appropriate, amending this Regulation. Such a legislative proposal should set out the measures that are most appropriate in light of the circumstances that the third country or countries are facing, while preserving the objectives of this Regulation. Those measures should be limited in time.

([16]) Commission Recommendation 2013/179/EU of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

(70) A dialogue with third countries should continue and there should be space for cooperation and solutions that could inform the specific choices to be made on the details of the CBAM during its implementation, in particular during the transitional period.

(71) The Commission should strive to engage in an even-handed manner and in line with the international obligations of the Union with the third countries whose trade to the Union is affected by this Regulation, in order to explore the possibility for dialogue and cooperation regarding the implementation of specific elements of the CBAM. The Commission should also explore the possibility of concluding agreements that take into account the carbon pricing mechanism of third countries. The Union should provide technical assistance for those purposes to developing countries and to least developed countries as identified by the United Nations (LDCs).

(72) The establishment of the CBAM calls for the development of bilateral, multilateral and international cooperation with third countries. For that purpose, a forum of countries with carbon pricing instruments or other comparable instruments ('Climate Club') should be set up, in order to promote the implementation of ambitious climate policies in all countries and pave the way for a global carbon pricing framework. The Climate Club should be open, voluntary, non-exclusive and directed in particular at aiming for high climate ambition in line with the Paris Agreement. The Climate Club could function under the auspices of a multilateral international organisation and should facilitate the comparison and, where appropriate, coordination of relevant measures with an impact on emission reduction. The Climate Club should also support the comparability of relevant climate measures by ensuring the quality of climate monitoring, reporting and verification among its members and providing means for engagement and transparency between the Union and its trade partners.

(73) In order to further support the achievement of the goals of the Paris Agreement in third countries, it is desirable that the Union continue to provide financial support through the Union budget towards climate mitigation and adaptation in LDCs, including in their efforts towards the decarbonisation and transformation of their manufacturing industries. That Union support should also contribute to facilitating the adaptation of the industries concerned to the new regulatory requirements stemming from this Regulation.

(74) As the CBAM aims to encourage cleaner production, the Union is committed to working with and supporting low and middle-income third countries towards the decarbonisation of their manufacturing industries as part of the external dimension of the European Green Deal and in line with the Paris Agreement. The Union should continue to support those countries through the Union budget, especially LDCs, in order to contribute to ensuring their adaptation to the obligations under this Regulation. The Union should also continue to support climate mitigation and adaptation in those countries, including in their efforts towards the decarbonisation and transformation of their manufacturing industries, within the ceiling of the multi-annual financial framework and the financial support provided by the Union to international climate finance. The Union is working towards introducing a new own resource based on the revenues generated by the sale of CBAM certificates.

(75) This Regulation is without prejudice to Regulations (EU) 2016/679 ([17]) and (EU) 2018/1725 ([18]) of the European Parliament and of the Council.

(76) In the interest of efficiency, Council Regulation (EC) No 515/97 ([19]) should apply *mutatis mutandis* to this Regulation.

([17]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

([18]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

([19]) Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

(77) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of:

— supplementing this Regulation by laying down requirements and procedures for third countries or territories that have been removed from the list in point 2 of Annex III, to ensure the application of this Regulation to those countries or territories with regard to electricity;

— amending the list of third countries and territories listed in point 1 or 2 of Annex III, either by adding those countries or territories to that list, in order to exclude from the CBAM those third countries or territories that are fully integrated into, or linked to, the EU ETS in the event of future agreements, or by removing third countries or territories from that list, thereby subjecting them to the CBAM, where they do not effectively charge the EU ETS price on goods exported to the Union;

— supplementing this Regulation by specifying the conditions for granting accreditation to verifiers, control and oversight of accredited verifiers, withdrawal of accreditation, and mutual recognition and peer evaluation of the accreditation bodies;

— supplementing this Regulation by further defining the timing, administration and other aspects of the sale and repurchase of CBAM certificates; and

— amending the list of goods in Annex I by adding, in certain circumstances, goods that have been slightly modified, in order to strengthen measures that address practices of circumvention.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([20]). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(78) Such consultations should be conducted in a transparent manner and may include prior consultations of stakeholders, such as competent bodies, industry (including SMEs), social partners such as trade unions, civil society organisations and environmental organisations.

(79) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([21]).

(80) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties. The CBAM should therefore rely on appropriate and effective mechanisms for avoiding losses of revenues.

(81) Since the objectives of this Regulation, namely to prevent the risk of carbon leakage and thereby reduce global carbon emissions, cannot be sufficiently achieved by the Member States, but can rather, by reason of their 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.

(82) In order to allow for the timely adoption of delegated and implementing acts under this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

([20]) OJ L 123, 12.5.2016, p. 1.

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

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

1. This Regulation establishes a carbon border adjustment mechanism (the 'CBAM') to address greenhouse gas emissions embedded in the goods listed in Annex I on their importation into the customs territory of the Union in order to prevent the risk of carbon leakage, thereby reducing global carbon emissions and supporting the goals of the Paris Agreement, also by creating incentives for the reduction of emissions by operators in third countries.

2. The CBAM complements the system for greenhouse gas emission allowance trading within the Union established under Directive 2003/87/EC (the 'EU ETS') by applying an equivalent set of rules to imports into the customs territory of the Union of the goods referred to in Article 2 of this Regulation.

3. The CBAM is set to replace the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage by reflecting the extent to which EU ETS allowances are allocated free of charge in accordance with Article 10a of that Directive.

Article 2

Scope

1. This Regulation applies to goods listed in Annex I originating in a third country, where those goods, or processed products from those goods resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013, are imported into the customs territory of the Union.

2. This Regulation also applies to goods listed in Annex I to this Regulation originating in a third country, where those goods, or processed products from those goods resulting from the inward processing procedure referred to in Article 256 of Regulation (EU) No 952/2013, are brought to an artificial island, a fixed or floating structure, or any other structure on the continental shelf or in the exclusive economic zone of a Member State that is adjacent to the customs territory of the Union.

The Commission shall adopt implementing acts laying down detailed conditions for the application of the CBAM to such goods, in particular as regards the notions equivalent to those of importation into the customs territory of the Union and of release for free circulation, as regards the procedures relating to the submission of the CBAM declaration in respect of such goods and the controls to be carried out by customs authorities. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.

3. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to:

(a) goods listed in Annex I to this Regulation which are imported into the customs territory of the Union provided that the intrinsic value of such goods does not exceed, per consignment, the value specified for goods of negligible value as referred to in Article 23 of Council Regulation (EC) No 1186/2009 ([22]);

(b) goods contained in the personal luggage of travellers coming from a third country provided that the intrinsic value of such goods does not exceed the value specified for goods of negligible value as referred to in Article 23 of Regulation (EC) No 1186/2009;

([22]) Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (OJ L 324, 10.12.2009, p. 23).

(c) goods to be moved or used in the context of military activities pursuant to Article 1, point (49), of Commission Delegated Regulation (EU) 2015/2446 ([23]).

4. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to goods originating in the third countries and territories listed in point 1 of Annex III.

5. Imported goods shall be considered as originating in third countries in accordance with the rules for non-preferential origin as referred to in Article 59 of Regulation (EU) No 952/2013.

6. Third countries and territories shall be listed in point 1 of Annex III where they fulfil all the following conditions:

(a) the EU ETS applies to that third country or territory or an agreement has been concluded between that third country or territory and the Union fully linking the EU ETS and the emission trading system of that third country or territory;

(b) the carbon price paid in the country in which the goods originate is effectively charged on the greenhouse gas emissions embedded in those goods without any rebates beyond those also applied in accordance with the EU ETS.

7. If a third country or territory has an electricity market which is integrated with the Union internal market for electricity through market coupling, and there is no technical solution for the application of the CBAM to the importation of electricity into the customs territory of the Union from that third country or territory, such importation of electricity from that country or territory shall be exempt from the application of the CBAM, provided that the Commission has assessed that all of the following conditions have been fulfilled in accordance with paragraph 8:

(a) the third country or territory has concluded an agreement with the Union which sets out an obligation to apply Union law in the field of electricity, including the legislation on the development of renewable energy sources, as well as other rules in the field of energy, environment and competition;

(b) the domestic legislation in that third country or territory implements the main provisions of Union electricity market legislation, including on the development of renewable energy sources and the market coupling of electricity markets;

(c) the third country or territory has submitted a roadmap to the Commission which contains a timetable for the adoption of measures to implement the conditions set out in points (d) and (e);

(d) the third country or territory has committed to climate neutrality by 2050 and, where applicable, has accordingly formally formulated and communicated to the United Nations Framework Convention on Climate Change (UNFCCC) a mid-century, long-term low greenhouse gas emissions development strategy aligned with that objective, and has implemented that commitment in its domestic legislation;

(e) the third country or territory has, when implementing the roadmap referred to in point (c), demonstrated its fulfilment of the set deadlines and the substantial progress towards the alignment of domestic legislation with Union law in the field of climate action on the basis of that roadmap, including towards carbon pricing at a level equivalent to that in the Union in particular insofar as the generation of electricity is concerned; the implementation of an emissions trading system for electricity, with a price equivalent to the EU ETS, is to be finalised by 1 January 2030;

(f) the third country or territory has put in place an effective system to prevent indirect import of electricity into the Union from other third countries or territories that do not fulfil the conditions set out in points (a) to (e).

([23]) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

8. A third country or territory that fulfils all the conditions set out in paragraph 7, shall be listed in point 2 of Annex III, and shall submit two reports on the fulfilment of those conditions, the first report by 1 July 2025 and the second by 31 December 2027. By 31 December 2025 and by 1 July 2028, the Commission shall assess, in particular on the basis of the roadmap referred to in paragraph 7, point (c), and the reports received from the third country or territory, if that third country or territory continues to fulfil the conditions set out in paragraph 7.

9. A third country or territory listed in point 2 of Annex III shall be removed from that list where one or more of the following conditions applies:

(a) the Commission has reasons to consider that that third country or territory has not shown sufficient progress to comply with one of the conditions set out in paragraph 7, or that third country or territory has taken action that is incompatible with the objectives set out in the Union climate and environmental legislation;

(b) that third country or territory has taken steps that are contrary to its decarbonisation objectives, such as providing public support for the establishment of new generation capacity that emits more than 550 grammes of carbon dioxide ('CO_2') of fossil fuel origin per kilowatt-hour of electricity;

(c) the Commission has evidence that, as a result of increased exports of electricity to the Union, the emissions per kilowatt-hour of electricity produced in that third country or territory have increased by at least 5 % compared to 1 January 2026.

10. The Commission is empowered to adopt delegated acts in accordance with Article 28 in order to supplement this Regulation by laying down requirements and procedures for third countries or territories that have been removed from the list in point 2 of Annex III, to ensure the application of this Regulation to those countries or territories with regard to electricity. If in such cases market coupling remains incompatible with the application of this Regulation, the Commission may decide to exclude those third countries or territories from Union market coupling and require explicit capacity allocation at the border between the Union and those third countries or territories, so that the CBAM can apply.

11. The Commission is empowered to adopt delegated acts in accordance with Article 28 in order to amend the lists of third countries or territories listed in point 1 or 2 of Annex III by adding or removing a third country or territory, depending on whether the conditions set out in paragraph 6, 7 or 9 of this Article are fulfilled in respect of that third country or territory.

12. The Union may conclude agreements with third countries or territories with a view to taking into account carbon pricing mechanisms in such countries or territories for the purposes of the application of Article 9.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'goods' means goods listed in Annex I;

(2) 'greenhouse gases' means greenhouse gases as specified in Annex I in relation to each of the goods listed in that Annex;

(3) 'emissions' means the release of greenhouse gases into the atmosphere from the production of goods;

(4) 'importation' means release for free circulation as provided for in Article 201 of Regulation (EU) No 952/2013;

(5) 'EU ETS' means the system for greenhouse gas emissions allowance trading within the Union in respect of activities listed in Annex I to Directive 2003/87/EC other than aviation activities;

(6) 'customs territory of the Union' means the territory defined in Article 4 of Regulation (EU) No 952/2013;

(7) 'third country' means a country or territory outside the customs territory of the Union;

(8) 'continental shelf' means a continental shelf as defined in Article 76 of the United Nations Convention on the Law of the Sea;

(9) 'exclusive economic zone' means an exclusive economic zone as defined in Article 55 of the United Nations Convention on the Law of the Sea and which has been declared as an exclusive economic zone by a Member State pursuant to that convention;

(10) 'intrinsic value' means the intrinsic value for commercial goods as defined in Article 1, point (48), of Delegated Regulation (EU) 2015/2446;

(11) 'market coupling' means the allocation of transmission capacity through a Union system which simultaneously matches orders and allocates cross-zonal capacities as set out in Regulation (EU) 2015/1222;

(12) 'explicit capacity allocation' means the allocation of cross-border transmission capacity separate from the trade of electricity;

(13) 'competent authority' means the authority designated by each Member State in accordance with Article 11;

(14) 'customs authorities' means the customs administrations of Member States as defined in Article 5, point (1), of Regulation (EU) No 952/2013;

(15) 'importer' means either the person lodging a customs declaration for release for free circulation of goods in its own name and on its own behalf or, where the customs declaration is lodged by an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013, the person on whose behalf such a declaration is lodged;

(16) 'customs declarant' means a declarant as defined in Article 5, point (15), of Regulation (EU) No 952/2013 lodging a customs declaration for release for free circulation of goods in its own name or the person in whose name such a declaration is lodged;

(17) 'authorised CBAM declarant' means a person authorised by a competent authority in accordance with Article 17;

(18) 'person' means a natural person, a legal person or any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts;

(19) 'established in a Member State' means:

(a) in the case of a natural person, any person whose place of residence is in a Member State;

(b) in the case of a legal person or an association of persons, any person whose registered office, central headquarters or permanent business establishment is in a Member State;

(20) 'Economic Operators Registration and Identification number (EORI number)' means the number assigned by the customs authority when the registration for customs purposes has been carried out in accordance with Article 9 of Regulation (EU) No 952/2013;

(21) 'direct emissions' means emissions from the production processes of goods, including emissions from the production of heating and cooling that is consumed during the production processes, irrespective of the location of the production of the heating or cooling;

(22) 'embedded emissions' means direct emissions released during the production of goods and indirect emissions from the production of electricity that is consumed during the production processes, calculated in accordance with the methods set out in Annex IV and further specified in the implementing acts adopted pursuant to Article 7(7);

(23) 'tonne of CO_2e' means one metric tonne of CO_2, or an amount of any other greenhouse gas listed in Annex I with an equivalent global warming potential;

(24) 'CBAM certificate' means a certificate in electronic format corresponding to one tonne of CO_2e of embedded emissions in goods;

(25) 'surrender' means offsetting of CBAM certificates against the declared embedded emissions in imported goods or against the embedded emissions in imported goods that should have been declared;

(26) 'production processes' means the chemical and physical processes carried out to produce goods in an installation;

(27) 'default value' means a value, which is calculated or drawn from secondary data, which represents the embedded emissions in goods;

(28) 'actual emissions' means the emissions calculated based on primary data from the production processes of goods and from the production of electricity consumed during those processes as determined in accordance with the methods set out in Annex IV;

(29) 'carbon price' means the monetary amount paid in a third country, under a carbon emissions reduction scheme, in the form of a tax, levy or fee or in the form of emission allowances under a greenhouse gas emissions trading system, calculated on greenhouse gases covered by such a measure, and released during the production of goods;

(30) 'installation' means a stationary technical unit where a production process is carried out;

(31) 'operator' means any person who operates or controls an installation in a third country;

(32) 'national accreditation body' means a national accreditation body as appointed by each Member State pursuant to Article 4(1) of Regulation (EC) No 765/2008;

(33) 'EU ETS allowance' means an allowance as defined in Article 3, point (a), of Directive 2003/87/EC in respect of activities listed in Annex I to that Directive other than aviation activities;

(34) 'indirect emissions' means emissions from the production of electricity which is consumed during the production processes of goods, irrespective of the location of the production of the consumed electricity.

CHAPTER II

OBLIGATIONS AND RIGHTS OF AUTHORISED CBAM DECLARANTS

Article 4

Importation of goods

Goods shall be imported into the customs territory of the Union only by an authorised CBAM declarant.

Article 5

Application for authorisation

1. Any importer established in a Member State shall, prior to importing goods into the customs territory of the Union, apply for the status of authorised CBAM declarant ('application for an authorisation'). Where such an importer appoints an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013 and the indirect customs representative agrees to act as an authorised CBAM declarant, the indirect customs representative shall submit the application for an authorisation.

2. Where an importer is not established in a Member State, the indirect customs representative shall submit the application for an authorisation.

3. The application for an authorisation shall be submitted via the CBAM registry established in accordance with Article 14.

4. By way of derogation from paragraph 1, where transmission capacity for the import of electricity is allocated through explicit capacity allocation, the person to whom capacity has been allocated for import and who nominates that capacity for import shall, for the purposes of this Regulation, be regarded as an authorised CBAM declarant in the Member State where the person has declared the importation of electricity in the customs declaration. Imports are to be measured per border for time periods no longer than one hour and no deduction of export or transit in the same hour shall be possible.

The competent authority of the Member State in which the customs declaration has been lodged shall register the person in the CBAM registry.

5. The application for an authorisation shall include the following information about the applicant:

(a) name, address and contact information;

(b) EORI number;

(c) main economic activity carried out in the Union;

(d) certification by the tax authority in the Member State where the applicant is established that the applicant is not subject to an outstanding recovery order for national tax debts;

(e) declaration of honour that the applicant was not involved in any serious infringements or repeated infringements of customs legislation, taxation rules or market abuse rules during the five years preceding the year of the application, including that it has no record of serious criminal offences relating to its economic activity;

(f) information necessary to demonstrate the applicant's financial and operational capacity to fulfil its obligations under this Regulation and, if decided by the competent authority on the basis of a risk assessment, supporting documents confirming that information, such as the profit and loss account and the balance sheet for up to the last three financial years for which the accounts were closed;

(g) estimated monetary value and volume of imports of goods into the customs territory of the Union by type of goods, for the calendar year during which the application is submitted, and for the following calendar year;

(h) names and contact information of the persons on behalf of whom the applicant is acting, if applicable.

6. The applicant may withdraw its application at any time.

7. The authorised CBAM declarant shall inform without delay the competent authority, via the CBAM registry, of any changes to the information provided under paragraph 5 of this Article that have occurred after the decision granting the status of the authorised CBAM declarant has been adopted pursuant to Article 17 that may influence that decision or the content of the authorisation granted thereunder.

8. The Commission is empowered to adopt implementing acts on communications between the applicant, the competent authority and the Commission, on the standard format of the application for an authorisation and the procedures to submit such an application via the CBAM registry, on the procedure to be followed by the competent authority and the deadlines for processing applications for authorisation in accordance with paragraph 1 of this Article, and on the rules for identification by the competent authority of the authorised CBAM declarants for the importation of electricity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 6

CBAM declaration

1. By 31 May of each year, and for the first time in 2027 for the year 2026, each authorised CBAM declarant shall use the CBAM registry referred to in Article 14 to submit a CBAM declaration for the preceding calendar year.

2. The CBAM declaration shall contain the following information:

(a) the total quantity of each type of goods imported during the preceding calendar year, expressed in megawatt-hours for electricity and in tonnes for other goods;

(b) the total embedded emissions in the goods referred to in point (a) of this paragraph, expressed in tonnes of CO_2e emissions per megawatt-hour of electricity or, for other goods, in tonnes of CO_2e emissions per tonne of each type of goods, calculated in accordance with Article 7 and verified in accordance with Article 8;

(c) the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions referred to in point (b) of this paragraph after the reduction that is due on the account of the carbon price paid in a country of origin in accordance with Article 9 and the adjustment necessary to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 31;

(d) copies of verification reports, issued by accredited verifiers, under Article 8 and Annex VI.

3. Where processed products resulting from an inward processing procedure as referred to in Article 256 of Regulation (EU) No 952/2013 are imported, the authorised CBAM declarant shall report in the CBAM declaration the emissions embedded in the goods that were placed under the inward processing procedure and resulted in the imported processed products, even where the processed products are not goods listed in Annex I to this Regulation. This paragraph shall also apply where the processed products resulting from the inward processing procedure are returned goods as referred to in Article 205 of Regulation (EU) No 952/2013.

4. Where the imported goods listed in Annex I to this Regulation are processed products resulting from an outward processing procedure as referred to in Article 259 of Regulation (EU) No 952/2013, the authorised CBAM declarant shall report in the CBAM declaration only the emissions of the processing operation undertaken outside the customs territory of the Union.

5. Where the imported goods are returned goods as referred to in Article 203 of Regulation (EU) No 952/2013, the authorised CBAM declarant shall report separately, in the CBAM declaration, 'zero' for the total embedded emissions corresponding to those goods.

6. The Commission is empowered to adopt implementing acts concerning the standard format of the CBAM declaration, including detailed information for each installation and country of origin and type of goods to be reported which supports the totals referred to in paragraph 2 of this Article, in particular as regards embedded emissions and carbon price paid, the procedure for submitting the CBAM declaration via the CBAM registry, and the arrangements for surrendering the CBAM certificates referred to in paragraph 2, point (c), of this Article, in accordance with Article 22(1), in particular as regards the process and the selection by the authorised CBAM declarant of certificates to be surrendered. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 7

Calculation of embedded emissions

1. Embedded emissions in goods shall be calculated pursuant to the methods set out in Annex IV. For goods listed in Annex II only direct emissions shall be calculated and taken into account.

2. Embedded emissions in goods other than electricity shall be determined based on the actual emissions in accordance with the methods set out in points 2 and 3 of Annex IV. Where the actual emissions cannot be adequately determined, as well as in the case of indirect emissions, the embedded emissions shall be determined by reference to default values in accordance with the methods set out in point 4.1 of Annex IV.

3. Embedded emissions in imported electricity shall be determined by reference to default values in accordance with the method set out in point 4.2 of Annex IV, unless the authorised CBAM declarant demonstrates that the criteria to determine the embedded emissions based on the actual emissions listed in point 5 of Annex IV are met.

4. Embedded indirect emissions shall be calculated in accordance with the method set out in point 4.3 of Annex IV and further specified in the implementing acts adopted pursuant to paragraph 7 of this Article, unless the authorised CBAM declarant demonstrates that the criteria to determine the embedded emissions based on actual emissions that are listed in point 6 of Annex IV are met.

5. The authorised CBAM declarant shall keep records of the information required to calculate the embedded emissions in accordance with the requirements laid down in Annex V. Those records shall be sufficiently detailed to enable verifiers accredited pursuant to Article 18 to verify the embedded emissions in accordance with Article 8 and Annex VI and to enable the Commission and the competent authority to review the CBAM declaration in accordance with Article 19(2).

6. The authorised CBAM declarant shall keep those records of information referred to in paragraph 5, including the report of the verifier, until the end of the fourth year after the year in which the CBAM declaration has been or should have been submitted.

7. The Commission is empowered to adopt implementing acts concerning:

(a) the application of the elements of the calculation methods set out in Annex IV, including determining system boundaries of production processes and relevant input materials (precursors), emission factors, installation-specific values of actual emissions and default values and their respective application to individual goods as well as laying down methods to ensure the reliability of data on the basis of which the default values shall be determined, including the level of detail and the verification of the data, and including further specification of goods that are to be considered as 'simple goods' and 'complex goods' for the purpose of point 1 of Annex IV; those implementing acts shall also specify the conditions under which it is deemed that actual emissions cannot be adequately determined, as well as the elements of evidence demonstrating that the criteria required to justify the use of actual emissions for electricity consumed in the production processes of goods for the purpose of paragraph 2 that are listed in points 5 and 6 of Annex IV are met; and

(b) the application of the elements of the calculation methods pursuant to paragraph 4 in accordance with point 4.3 of Annex IV.

Where objectively justified, the implementing acts referred to in the first subparagraph shall provide that default values can be adapted to particular areas, regions or countries to take into account specific objective factors that affect emissions, such as prevailing energy sources or industrial processes. Those implementing acts shall build upon existing legislation for the monitoring and verification of emissions and activity data for installations covered by Directive 2003/87/EC, in particular Commission Implementing Regulation (EU) 2018/2066 ([24]), Implementing Regulation (EU) 2018/2067 and Commission Delegated Regulation (EU) 2019/331 ([25]). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.

Article 8

Verification of embedded emissions

1. The authorised CBAM declarant shall ensure that the total embedded emissions declared in the CBAM declaration submitted pursuant to Article 6 are verified by a verifier accredited pursuant to Article 18, based on the verification principles set out in Annex VI.

2. For embedded emissions in goods produced in installations in a third country registered in accordance with Article 10, the authorised CBAM declarant may choose to use verified information disclosed to it in accordance with Article 10(7) to fulfil the obligation referred to in paragraph 1 of this Article.

([24]) Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

([25]) Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8).

3. The Commission is empowered to adopt implementing acts for the application of the verification principles set out in Annex VI as regards:

(a) the possibility to waive, in duly justified circumstances and without putting at risk a reliable estimation of the embedded emissions, the obligation for the verifier to visit the installation where relevant goods are produced;

(b) the definition of thresholds for deciding whether misstatements or non-conformities are material; and

(c) the supporting documentation needed for the verification report, including its format.

Where it adopts the implementing acts referred to in the first subparagraph, the Commission shall seek equivalence and coherence with the procedures set out in Implementing Regulation (EU) 2018/2067. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.

Article 9

Carbon price paid in a third country

1. An authorised CBAM declarant may claim in the CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order to take into account the carbon price paid in the country of origin for the declared embedded emissions. The reduction may be claimed only if the carbon price has been effectively paid in the country of origin. In such a case, any rebate or other form of compensation available in that country that would have resulted in a reduction of that carbon price shall be taken into account.

2. The authorised CBAM declarant shall keep records of the documentation required to demonstrate that the declared embedded emissions were subject to a carbon price in the country of origin of the goods that has been effectively paid as referred to in paragraph 1. The authorised CBAM declarant shall in particular keep evidence related to any rebate or other form of compensation available, in particular the references to the relevant legislation of that country. The information contained in that documentation shall be certified by a person that is independent from the authorised CBAM declarant and from the authorities of the country of origin. The name and contact information of that independent person shall appear on the documentation. The authorised CBAM declarant shall also keep evidence of the actual payment of the carbon price.

3. The authorised CBAM declarant shall keep the records referred to in paragraph 2 until the end of the fourth year after the year during which the CBAM declaration has been or should have been submitted.

4. The Commission is empowered to adopt implementing acts concerning the conversion of the yearly average carbon price effectively paid in accordance with paragraph 1 into a corresponding reduction of the number of CBAM certificates to be surrendered, including the conversion of the carbon price effectively paid in foreign currency into euro at the yearly average exchange rate, the evidence required of the actual payment of the carbon price, examples of any relevant rebate or other form of compensation referred to in paragraph 1 of this Article, the qualifications of the independent person referred to in paragraph 2 of this Article and the conditions to ascertain that person's independence. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 10

Registration of operators and of installations in third countries

1. The Commission shall, upon request by an operator of an installation located in a third country, register the information on that operator and on its installation in the CBAM registry referred to in Article 14.

2. The request for registration referred to in paragraph 1 shall contain the following information to be included in the CBAM registry upon registration:

(a) the name, address and contact information of the operator;

(b) the location of each installation including the complete address and geographical coordinates expressed in longitude and latitude, including six decimals;

(c) the main economic activity of the installation.

3. The Commission shall notify the operator of the registration in the CBAM registry. The registration shall be valid for a period of five years from the date of its notification to the operator of the installation.

4. The operator shall inform the Commission without delay of any changes in the information referred to in paragraph 2 arising after the registration, and the Commission shall update the relevant information in the CBAM registry.

5. The operator shall:

(a) determine the embedded emissions calculated in accordance with the methods set out in Annex IV, by type of goods produced at the installation referred to in paragraph 1 of this Article;

(b) ensure that the embedded emissions referred to in point (a) of this paragraph are verified in accordance with the verification principles set out in Annex VI by a verifier accredited pursuant to Article 18;

(c) keep a copy of the verification report as well as records of the information required to calculate the embedded emissions in goods in accordance with the requirements laid down in Annex V for a period of four years after the verification has been performed.

6. The records referred to in paragraph 5, point (c), of this Article shall be sufficiently detailed to enable the verification of the embedded emissions in accordance with Article 8 and Annex VI, and to enable the review, in accordance with Article 19, of the CBAM declaration made by an authorised CBAM declarant to whom the relevant information was disclosed in accordance with paragraph 7 of this Article.

7. An operator may disclose the information on the verification of embedded emissions referred to in paragraph 5 of this Article to an authorised CBAM declarant. The authorised CBAM declarant shall be entitled to use that disclosed information in order to fulfil the obligation referred to in Article 8.

8. The operator may, at any time, ask to be deregistered from the CBAM registry. The Commission shall, upon such request, and after notifying the competent authorities, deregister the operator and delete the information on that operator and on its installation from the CBAM registry, provided that such information is not necessary for the review of CBAM declarations that have been submitted. The Commission may, after having given the operator concerned the possibility to be heard and having consulted with the relevant competent authorities, also deregister the information if the Commission finds that the information on that operator is no longer accurate. The Commission shall inform the competent authorities of such deregistrations.

CHAPTER III

COMPETENT AUTHORITIES

Article 11

Competent authorities

1. Each Member State shall designate the competent authority to carry out the functions and duties under this Regulation and inform the Commission thereof.

The Commission shall make available to the Member States a list of all competent authorities and publish that information in the *Official Journal of the European Union* and make that information available in the CBAM registry.

2. Competent authorities shall exchange any information that is essential or relevant to the exercise of their functions and duties under this Regulation.

Article 12

Commission

In addition to the other tasks that it exercises under this Regulation, the Commission shall assist the competent authorities in carrying out their functions and duties under this Regulation and shall coordinate their activities by supporting the exchange of, and issuing guidelines on, best practices within the scope of this Regulation, and by promoting an adequate exchange of information and cooperation between competent authorities as well as between competent authorities and the Commission.

Article 13

Professional secrecy and disclosure of information

1. All information acquired by the competent authority or the Commission in the course of performing their duties which is by its nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. Such information shall not be disclosed by the competent authority or the Commission without the express prior permission of the person or authority that provided it or by virtue of Union or national law.

2. By way of derogation from paragraph 1, the competent authorities and the Commission may share such information with each other, the customs authorities, the authorities in charge of administrative or criminal penalties, and the European Public Prosecutor's Office, for the purposes of ensuring compliance of persons with their obligations under this Regulation and the application of customs legislation. Such shared information shall be covered by professional secrecy and shall not be disclosed to any other person or authority except by virtue of Union or national law.

Article 14

CBAM registry

1. The Commission shall establish a CBAM registry of authorised CBAM declarants in the form of a standardised electronic database containing the data regarding the CBAM certificates of those authorised CBAM declarants. The Commission shall make the information in the CBAM registry available automatically and in real time to customs authorities and competent authorities.

2. The CBAM registry referred to in paragraph 1 shall contain accounts with information about each authorised CBAM declarant, in particular:

(a) the name, address and contact information of the authorised CBAM declarant;

(b) the EORI number of the authorised CBAM declarant;

(c) the CBAM account number;

(d) the identification number, the sale price, the date of sale, and the date of surrender, repurchase or cancellation of CBAM certificates for each authorised CBAM declarant.

3. The CBAM registry shall contain, in a separate section of the registry, the information about the operators and installations in third countries registered in accordance with Article 10(2).

4. The information in the CBAM registry referred to in paragraphs 2 and 3 shall be confidential, with the exception of the names, addresses and contact information of the operators and the location of installations in third countries. An operator may choose not to have its name, address and contact information made accessible to the public. The public information in the CBAM registry shall be made accessible by the Commission in an interoperable format.

5. The Commission shall publish, on a yearly basis, for each of the goods listed in Annex I, the aggregated emissions embedded in the imported goods.

6. The Commission shall adopt implementing acts concerning the infrastructure and specific processes and procedures of the CBAM registry, including the risk analysis referred to in Article 15, the electronic databases containing the information referred to in paragraphs 2 and 3 of this Article, the data of the accounts in the CBAM registry referred to in Article 16, the transmission to the CBAM registry of the information on the sale, repurchase and cancellation of CBAM certificates referred to in Article 20, and the cross-check of information referred to in Article 25(3). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 15

Risk analysis

1. The Commission shall carry out risk-based controls on the data and the transactions recorded in the CBAM registry, referred to in Article 14, to ensure that there are no irregularities in the purchase, holding, surrender, repurchase and cancellation of CBAM certificates.

2. If the Commission identifies irregularities as a result of the controls carried out under paragraph 1, it shall inform the competent authorities concerned so that further investigations are carried out in order to correct the identified irregularities.

Article 16

Accounts in the CBAM registry

1. The Commission shall assign to each authorised CBAM declarant a unique CBAM account number.

2. Each authorised CBAM declarant shall be granted access to its account in the CBAM registry.

3. The Commission shall set up the account as soon as the authorisation referred to in Article 17(1) is granted and shall notify the authorised CBAM declarant thereof.

4. If the authorised CBAM declarant has ceased its economic activity or its authorisation has been revoked, the Commission shall close the account of that authorised CBAM declarant, provided that the authorised CBAM declarant has complied with all its obligations under this Regulation.

Article 17

Authorisation

1. Where an application for an authorisation is submitted in accordance with Article 5, the competent authority in the Member State in which the applicant is established shall grant the status of authorised CBAM declarant provided that the criteria set out in paragraph 2 of this Article are complied with. The status of authorised CBAM declarant shall be recognised in all Member States.

Before granting the status of authorised CBAM declarant, the competent authority shall conduct a consultation procedure on the application for an authorisation via the CBAM registry. The consultation procedure shall involve the competent authorities in the other Member States and the Commission and shall not exceed 15 working days.

2. The criteria for granting the status of authorised CBAM declarant shall be the following:

(a) the applicant has not been involved in a serious infringement or in repeated infringements of customs legislation, taxation rules, market abuse rules or this Regulation and delegated and implementing acts adopted under this Regulation, and in particular the applicant has no record of serious criminal offences relating to its economic activity during the five years preceding the application;

(b) the applicant demonstrates its financial and operational capacity to fulfil its obligations under this Regulation;

(c) the applicant is established in the Member State where the application is submitted; and

(d) the applicant has been assigned an EORI number in accordance with Article 9 of Regulation (EU) No 952/2013.

3. Where the competent authority finds that the criteria set out in paragraph 2 of this Article are not fulfilled, or where the applicant has failed to provide information listed in Article 5(5), the granting of the status of authorised CBAM declarant shall be refused. Such decision to refuse the status of authorised CBAM declarant shall provide the reasons for the refusal and include information on the possibility to appeal.

4. A decision of the competent authority granting the status of authorised CBAM declarant shall be registered in the CBAM registry and shall contain the following information:

(a) the name, address and contact information of the authorised CBAM declarant;

(b) the EORI number of the authorised CBAM declarant;

(c) the CBAM account number assigned to the authorised CBAM declarant in accordance with Article 16(1);

(d) the guarantee required in accordance with paragraph 5 of this Article.

5. For the purpose of complying with the criteria set out in paragraph 2, point (b), of this Article, the competent authority shall require the provision of a guarantee if the applicant was not established throughout the two financial years preceding the year when the application in accordance with Article 5(1) was submitted.

The competent authority shall fix the amount of such guarantee at the amount, calculated as the aggregate value of the number of CBAM certificates that the authorised CBAM declarant would have to surrender in accordance with Article 22 in respect of the imports of goods reported in accordance with Article 5(5), point (g). The guarantee provided shall be a bank guarantee, payable at first demand, by a financial institution operating in the Union or another form of guarantee which provides equivalent assurance.

6. Where the competent authority establishes that the guarantee provided does not ensure, or is no longer sufficient to ensure, the financial and operational capacity of the authorised CBAM declarant to fulfil its obligations under this Regulation, it shall require the authorised CBAM declarant to choose between providing an additional guarantee or replacing the initial guarantee with a new guarantee in accordance with paragraph 5.

7. The competent authority shall release the guarantee immediately after 31 May of the second year in which the authorised CBAM declarant has surrendered CBAM certificates in accordance with Article 22.

8. The competent authority shall revoke the status of authorised CBAM declarant where:

(a) the authorised CBAM declarant requests a revocation; or

(b) the authorised CBAM declarant no longer meets the criteria set out in paragraph 2 or 6 of this Article, or has been involved in a serious or repeated infringement of the obligation to surrender CBAM certificates referred to in Article 22(1) or of the obligation to ensure a sufficient number of CBAM certificates on its account in the CBAM registry at the end of each quarter referred to in Article 22(2).

Before revoking the status of authorised CBAM declarant, the competent authority shall give the authorised CBAM declarant the possibility to be heard and shall conduct a consultation procedure on the possible revocation of such status. The consultation procedure shall involve the competent authorities in the other Member States and the Commission and shall not exceed 15 working days.

Any decision of revocation shall contain the reasons for the decision as well as information about the right to appeal.

9. The competent authority shall register in the CBAM registry information on:

(a) the applicants whose application for an authorisation has been refused pursuant to paragraph 3; and

(b) the persons whose status of authorised CBAM declarant has been revoked pursuant to paragraph 8.

10. The Commission shall adopt, by means of implementing acts, the conditions for:

(a) the application of the criteria referred to in paragraph 2 of this Article, including that of not having been involved in a serious infringement or in repeated infringements under paragraph 2, point (a), of this Article;

(b) the application of the guarantee referred to in paragraphs 5, 6 and 7 of this Article;

(c) the application of the criteria of a serious or repeated infringement referred to in paragraph 8 of this Article;

(d) the consequences of the revocation of the status of authorised CBAM declarant referred to in paragraph 8 of this Article; and

(e) the specific deadlines and format of the consultation procedure referred to in paragraphs 1 and 8 of this Article.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 18

Accreditation of verifiers

1. Any person accredited in accordance with Implementing Regulation (EU) 2018/2067 for a relevant group of activities shall be an accredited verifier for the purpose of this Regulation. The Commission is empowered to adopt implementing acts to identify relevant groups of activities by providing an alignment of the qualifications of an accredited verifier that are necessary to perform verifications for the purpose of this Regulation with the relevant group of activities listed in Annex I to Implementing Regulation (EU) 2018/2067 and indicated in the accreditation certificate. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation.

2. A national accreditation body may, on request, accredit a person to be a verifier for the purpose of this Regulation where it considers, on the basis of the documentation submitted to it, that such person has the capacity to apply the verification principles referred to in Annex VI when performing the tasks of verification of the embedded emissions pursuant to Articles 8 and 10.

3. The Commission is empowered to adopt delegated acts in accordance with Article 28 in order to supplement this Regulation by specifying the conditions for granting of accreditation referred to in paragraph 2 of this Article, for the control and oversight of accredited verifiers, for the withdrawal of accreditation and for mutual recognition and peer evaluation of accreditation bodies.

Article 19

Review of CBAM declarations

1. The Commission shall have the oversight role in the review of CBAM declarations.

2. The Commission may review CBAM declarations, in accordance with a review strategy, including risk factors, within the period ending with the fourth year after the year during which the CBAM declarations should have been submitted.

The review may consist in verifying the information provided in the CBAM declaration and in verification reports on the basis of the information communicated by the customs authorities in accordance with Article 25, any other relevant evidence, and on the basis of any audit deemed necessary, including at the premises of the authorised CBAM declarant.

The Commission shall communicate the initiation and the results of the review to the competent authority of the Member State where the CBAM declarant is established, via the CBAM registry.

The competent authority of the Member State where the authorised CBAM declarant is established may also review a CBAM declaration within the period referred to in the first subparagraph of this paragraph. The competent authority shall communicate the initiation and the results of a review to the Commission, via the CBAM registry.

3. The Commission shall periodically set out specific risk factors and points for attention, based on a risk analysis in relation to the implementation of the CBAM at Union level, taking into account information contained in the CBAM registry, data communicated by customs authorities, and other relevant information sources, including the controls and checks carried out pursuant to Article 15(2) and Article 25.

The Commission shall also facilitate the exchange of information with competent authorities about fraudulent activities and the penalties imposed in accordance with Article 26.

4. Where an authorised CBAM declarant fails to submit a CBAM declaration in accordance with Article 6, or where the Commission considers, on the basis of its review under paragraph 2 of this Article, that the declared number of CBAM certificates is incorrect, the Commission shall assess the obligations under this Regulation of that authorised CBAM declarant on the basis of the information at its disposal. The Commission shall establish a preliminary calculation of the total number of CBAM certificates which should have been surrendered, at the latest by the 31 December of the year following that in which the CBAM declaration should have been submitted, or at the latest by 31 December of the fourth year following that in which the incorrect CBAM declaration has been submitted, as applicable. The Commission shall provide to competent authorities such a preliminary calculation, for indicative purposes and without prejudice to the definitive calculation established by the competent authority of the Member State where the authorised CBAM declarant is established.

5. Where the competent authority concludes that the declared number of CBAM certificates to be surrendered is incorrect, or that no CBAM declaration has been submitted in accordance with Article 6, it shall determine the number of CBAM certificates which should have been surrendered by the authorised CBAM declarant, taking into account the information submitted by the Commission.

The competent authority shall notify the authorised CBAM declarant of its decision on the number of CBAM certificates determined and shall request that the authorised CBAM declarant surrender the additional CBAM certificates within one month.

The competent authority's decision shall contain the reasons for the decision as well as information about the right to appeal. The decision shall also be notified via the CBAM registry.

Where the competent authority, after receiving the preliminary calculation from the Commission in accordance with paragraphs 2 and 4 of this Article, decides not to take any action, the competent authority shall inform the Commission accordingly, via the CBAM registry.

6. Where the competent authority concludes that the number of CBAM certificates surrendered exceeds the number which should have been surrendered, it shall inform the Commission without delay. The CBAM certificates surrendered in excess shall be repurchased in accordance with Article 23.

CHAPTER IV

CBAM CERTIFICATES

Article 20

Sale of CBAM certificates

1. A Member State shall sell CBAM certificates on a common central platform to authorised CBAM declarants established in that Member State.

2. The Commission shall establish and manage the common central platform following a joint procurement procedure between the Commission and the Member States.

The Commission and the competent authorities shall have access to the information in the common central platform.

3. The information on the sale, repurchase and cancellation of CBAM certificates in the common central platform shall be transferred to the CBAM registry at the end of each working day.

4. CBAM certificates shall be sold to authorised CBAM declarants at the price calculated in accordance with Article 21.

5. The Commission shall ensure that each CBAM certificate is assigned a unique identification number upon its creation. The Commission shall register the unique identification number and the price and date of sale of the CBAM certificate in the CBAM registry in the account of the authorised CBAM declarant purchasing that certificate.

6. The Commission shall adopt delegated acts in accordance with Article 28 supplementing this Regulation by further specifying the timing, administration and other aspects related to the management of the sale and repurchase of CBAM certificates, seeking coherence with the procedures of Commission Regulation (EU) No 1031/2010 ([26]).

Article 21

Price of CBAM certificates

1. The Commission shall calculate the price of CBAM certificates as the average of the closing prices of EU ETS allowances on the auction platform, in accordance with the procedures laid down in Regulation (EU) No 1031/2010, for each calendar week.

For those calendar weeks in which no auctions are scheduled on the auction platform, the price of CBAM certificates shall be the average of the closing prices of EU ETS allowances of the last week in which auctions on the auction platform took place.

2. The Commission shall publish the average price, as referred to in the second subparagraph of paragraph 1, on its website or in any other appropriate manner on the first working day of the following calendar week. That price shall apply from the first working day following that of its publication to the first working day of the following calendar week.

3. The Commission is empowered to adopt implementing acts on the application of the methodology provided for in paragraph 1 of this Article to calculate the average price of CBAM certificates and the practical arrangements for the publication of that price. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

Article 22

Surrender of CBAM certificates

1. By 31 May of each year, and for the first time in 2027 for the year 2026, the authorised CBAM declarant shall surrender via the CBAM registry a number of CBAM certificates that corresponds to the embedded emissions declared in accordance with Article 6(2), point (c), and verified in accordance with Article 8, for the calendar year preceding the surrender. The Commission shall remove surrendered CBAM certificates from the CBAM registry. The authorised CBAM declarant shall ensure that the required number of CBAM certificates is available on its account in the CBAM registry.

([26]) Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a system for greenhouse gas emission allowances trading within the Union (OJ L 302, 18.11.2010, p. 1).

2. The authorised CBAM declarant shall ensure that the number of CBAM certificates on its account in the CBAM registry at the end of each quarter corresponds to at least 80 % of the embedded emissions, determined by reference to default values in accordance with the methods set out in Annex IV, in all goods it has imported since the beginning of the calendar year.

3. Where the Commission finds that the number of CBAM certificates in the account of an authorised CBAM declarant does not comply with the obligations pursuant to paragraph 2, it shall inform, via the CBAM registry, the competent authority of the Member State where the authorised CBAM declarant is established.

The competent authority shall notify the authorised CBAM declarant of the need to ensure a sufficient number of CBAM certificates in its account within one month of such notification.

The competent authority shall register the notification to, and the response from, the authorised CBAM declarant in the CBAM registry.

Article 23

Repurchase of CBAM certificates

1. Where an authorised CBAM declarant so requests, the Member State where that authorised CBAM declarant is established shall repurchase the excess CBAM certificates remaining on the account of the declarant in the CBAM registry after the certificates have been surrendered in accordance with Article 22.

The Commission shall repurchase the excess CBAM certificates through the common central platform referred to in Article 20 on behalf of the Member State where the authorised CBAM declarant is established. The authorised CBAM declarant shall submit the repurchase request by 30 June of each year during which CBAM certificates were surrendered.

2. The number of certificates subject to repurchase as referred to in paragraph 1 shall be limited to one third of the total number of CBAM certificates purchased by the authorised CBAM declarant during the previous calendar year.

3. The repurchase price for each CBAM certificate shall be the price paid by the authorised CBAM declarant for that certificate at the time of purchase.

Article 24

Cancellation of CBAM certificates

On 1 July of each year, the Commission shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the account of an authorised CBAM declarant in the CBAM registry. Those CBAM certificates shall be cancelled without any compensation.

Where the number of CBAM certificates to be surrendered is contested in a pending dispute in a Member State, the Commission shall suspend the cancellation of the CBAM certificates to the extent corresponding to the disputed amount. The competent authority of the Member State where the authorised CBAM declarant is established shall communicate without delay any relevant information to the Commission.

CHAPTER V

RULES APPLICABLE TO THE IMPORTATION OF GOODS

Article 25

Rules applicable to the importation of goods

1. The customs authorities shall not allow the importation of goods by any person other than an authorised CBAM declarant.

2. The customs authorities shall periodically and automatically, in particular by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013, communicate to the Commission specific information on the goods declared for importation. That information shall include the EORI number and the CBAM account number of the authorised CBAM declarant, the eight-digit CN code of the goods, the quantity, the country of origin, the date of the customs declaration and the customs procedure.

3. The Commission shall communicate the information referred to in paragraph 2 of this Article to the competent authority of the Member State where the authorised CBAM declarant is established and shall, for each CBAM declarant, cross-check that information with the data in the CBAM registry pursuant to Article 14.

4. The customs authorities may communicate, in accordance with Article 12(1) of Regulation (EU) No 952/2013, confidential information acquired by the customs authorities in the course of performing their duties, or provided to the customs authorities on a confidential basis, to the Commission and the competent authority of the Member State that has granted the status of the authorised CBAM declarant.

5. Regulation (EC) No 515/97 shall apply *mutatis mutandis* to this Regulation.

6. The Commission is empowered to adopt implementing acts defining the scope of information and the periodicity, timing and means for communicating that information pursuant to paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

CHAPTER VI

ENFORCEMENT

Article 26

Penalties

1. An authorised CBAM declarant who fails to surrender, by 31 May of each year, the number of CBAM certificates that corresponds to the emissions embedded in goods imported during the preceding calendar year shall be held liable for the payment of a penalty. Such a penalty shall be identical to the excess emissions penalty set out in Article 16(3) of Directive 2003/87/EC and increased pursuant to Article 16(4) of that Directive, applicable in the year of importation of the goods. Such a penalty shall apply for each CBAM certificate that the authorised CBAM declarant has not surrendered.

2. Where a person other than an authorised CBAM declarant introduces goods into the customs territory of the Union without complying with the obligations under this Regulation, that person shall be held liable for the payment of a penalty. Such a penalty shall be effective, proportionate and dissuasive and shall, depending in particular on the duration, gravity, scope, intentional nature and repetition of such non-compliance and the level of cooperation of the person with the competent authority, be an amount from three to five times the penalty referred to in paragraph 1, applicable in the year of introduction of the goods, for each CBAM certificate that the person has not surrendered.

3. The payment of the penalty shall not release the authorised CBAM declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year.

4. If the competent authority determines, including in light of the preliminary calculations made by the Commission in accordance with Article 19, that an authorised CBAM declarant has failed to comply with the obligation to surrender CBAM certificates as set out in paragraph 1 of this Article, or that a person has introduced goods into the customs territory of the Union without complying with the obligations under this Regulation as set out in paragraph 2 of this Article, the competent authority shall impose the penalty pursuant to paragraph 1 or 2 of this Article, as applicable. To that end, the competent authority shall notify the authorised CBAM declarant or, where paragraph 2 of this Article applies, the person:

(a) that the competent authority has concluded that the authorised CBAM declarant or the person referred to in paragraph 2 of this Article failed to comply with the obligations under this Regulation;

(b) of the reasons for its conclusion;

(c) of the amount of the penalty imposed on the authorised CBAM declarant or on the person referred to in paragraph 2 of this Article;

(d) of the date from which the penalty is due;

(e) of the action that the authorised CBAM declarant or the person referred to in paragraph 2 of this Article is to take to pay the penalty; and

(f) of the right of the authorised CBAM declarant or of the person referred to in paragraph 2 of this Article to appeal.

5. Where the penalty has not been paid by the due date referred to in paragraph 4, point (d), the competent authority shall secure payment of that penalty by all means available to it under the national law of the Member State concerned.

6. Member States shall communicate the decisions on penalties referred to in paragraphs 1 and 2 to the Commission and shall register the final payment referred to in paragraph 5 in the CBAM registry.

Article 27

Circumvention

1. The Commission shall take action in accordance with this Article, based on relevant and objective data, to address practices of circumvention of this Regulation.

2. Practices of circumvention shall be defined as a change in the pattern of trade in goods, which stems from a practice, process or work, for which there is insufficient due cause or economic justification other than to avoid, wholly or partially, any of the obligations laid down in this Regulation. Such practice, process or work may consist of, but is not limited to:

(a) slightly modifying the goods concerned to make those goods fall under CN codes which are not listed in Annex I, except where the modification alters their essential characteristics;

(b) artificially splitting shipments into consignments the intrinsic value of which does not exceed the threshold referred to in Article 2(3).

3. The Commission shall continuously monitor the situation at Union level with a view to identifying practices of circumvention, including by way of market surveillance or on the basis of any relevant source of information, such as submissions by, and reporting from, civil society organisations.

4. A Member State or any party that has been affected by, or has benefited from, any of the situations referred to in paragraph 2 may notify the Commission if it is confronted with practices of circumvention. Interested parties other than directly affected or benefited parties, such as environmental organisations and non-governmental organisations, which find concrete evidence of practices of circumvention may also notify the Commission.

5. The notification referred to in paragraph 4 shall state the reasons on which it is based and shall include relevant data and statistics to support the claim of circumvention of this Regulation. The Commission shall initiate an investigation into a claim of circumvention either where it has been notified by a Member State, or by an affected, benefited or other interested party, provided that the notification meets the requirements referred to in this paragraph, or where the Commission itself determines that such an investigation is necessary. In carrying out the investigation, the Commission may be assisted by the competent authorities and customs authorities. The Commission shall conclude the investigation within nine months from the date of notification. Where an investigation has been initiated, the Commission shall notify all competent authorities.

6. Where the Commission, taking into account the relevant data, reports and statistics, including those provided by customs authorities, has sufficient reasons to believe that the circumstances referred to in paragraph 2, point (a) of this Article, are occurring in one or more Member States by way of an established pattern, it is empowered to adopt delegated acts in accordance with Article 28 to amend the list of goods in Annex I by adding the relevant slightly modified products referred to in paragraph 2, point (a), of this Article, for anti-circumvention purposes.

CHAPTER VII

EXERCISE OF THE DELEGATION AND COMMITTEE PROCEDURE

Article 28

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 2(10), 2(11), 18(3), 20(6) and 27(6) shall be conferred on the Commission for a period of five years from 17 May 2023. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for further periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 2(10), 2(11), 18(3), 20(6) and 27(6) may be revoked at any time by the European Parliament or by the Council.

4. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

5. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.

6. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

7. A delegated act adopted pursuant to Articles 2(10), 2(11), 18(3), 20(6) or 27(6) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 29

Committee procedure

1. The Commission shall be assisted by the CBAM Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VIII

REPORTING AND REVIEW

Article 30

Review and reporting by the Commission

1. The Commission, in consultation with relevant stakeholders, shall collect the information necessary with a view to extending the scope of this Regulation as indicated in and pursuant to paragraph 2, point (a), and to developing methods of calculating embedded emissions based on environmental footprint methods.

2. Before the end of the transitional period referred to in Article 32, the Commission shall present a report to the European Parliament and to the Council on the application of this Regulation.

The report shall contain an assessment of:

(a) the possibility to extend the scope to:

  (i) embedded indirect emissions in the goods listed in Annex II;

  (ii) embedded emissions in the transport of the goods listed in Annex I and transportation services;

  (iii) goods at risk of carbon leakage other than those listed in Annex I, and specifically organic chemicals and polymers;

  (iv) other input materials (precursors) for the goods listed in Annex I;

(b) the criteria to be used to identify goods to be included in the list in Annex I to this Regulation based on the sectors at risk of carbon leakage identified pursuant to Article 10b of Directive 2003/87/EC; that assessment shall be accompanied by a timetable ending in 2030 for the gradual inclusion of the goods within the scope of this Regulation, taking into account in particular the level of risk of their respective carbon leakage;

(c) the technical requirements for calculating embedded emissions for other goods to be included in the list in Annex I;

(d) the progress made in international discussions regarding climate action;

(e) the governance system, including the administrative costs;

(f) the impact of this Regulation on goods listed in Annex I imported from developing countries with special interest to the least developed countries as identified by the United Nations (LDCs) and on the effects of the technical assistance given;

(g) the methodology for the calculation of indirect emissions pursuant to Article 7(7) and point 4.3 of Annex IV.

3. At least one year before the end of the transitional period, the Commission shall present a report to the European Parliament and to the Council that identifies products further down the value chain of the goods listed in Annex I that it recommends to be considered for inclusion within the scope of this Regulation. To that end, the Commission shall develop, in a timely manner, a methodology that should be based on relevance in terms of cumulated greenhouse gas emissions and risk of carbon leakage.

4. The reports referred to in paragraphs 2 and 3 shall, where appropriate, be accompanied by a legislative proposal by the end of the transitional period, including a detailed impact assessment, in particular with a view to extending the scope of this Regulation on the basis of the conclusions drawn in those reports.

5. Every two years from the end of the transitional period, as part of its annual report to the European Parliament and to the Council pursuant to Article 10(5) of Directive 2003/87/EC, the Commission shall assess the effectiveness of the CBAM in addressing the carbon leakage risk of goods produced in the Union for export to third countries which do not apply the EU ETS or a similar carbon pricing mechanism. The report shall in particular assess the development of Union exports in CBAM sectors and the developments as regards trade flows and the embedded emissions of those goods on the global market. Where the report concludes that there is a risk of carbon leakage of goods produced in the Union for export to such third countries which do not apply the EU ETS or a similar carbon pricing mechanism, the Commission shall, where appropriate, present a legislative proposal to address that risk in a manner that complies with World Trade Organization law and that takes into account the decarbonisation of installations in the Union.

6. The Commission shall monitor the functioning of the CBAM with a view to evaluating the impacts and possible adjustments in its application.

Before 1 January 2028, as well as every two years thereafter, the Commission shall present a report to the European Parliament and to the Council on the application of this Regulation and functioning of the CBAM. The report shall contain at least the following:

(a) an assessment of the impact of the CBAM on:

  (i) carbon leakage, including in relation to exports;

  (ii) the sectors covered;

  (iii) internal market, economic and territorial impact throughout the Union;

  (iv) inflation and the price of commodities;

  (v) the effect on industries using goods listed in Annex I;

  (vi) international trade, including resource shuffling; and

  (vii) LDCs;

(b) an assessment of:

  (i) the governance system, including an assessment of the implementation and administration of the authorisation of CBAM declarants by Member States;

  (ii) the scope of this Regulation;

  (iii) practices of circumvention;

  (iv) the application of penalties in Member States;

(c) results of investigations and penalties imposed;

(d) aggregated information on the emission intensity for each country of origin for the different goods listed in Annex I.

7. Where an unforeseeable, exceptional and unprovoked event has occurred that is outside the control of one or more third countries subject to the CBAM, and that event has destructive consequences on the economic and industrial infrastructure of such country or countries concerned, the Commission shall assess the situation and submit to the European Parliament and to the Council a report, accompanied, where appropriate, by a legislative proposal, to amend this Regulation by setting out the necessary provisional measures to address those exceptional circumstances.

8. From the end of the transitional period referred to in Article 32 of this Regulation, as part of the annual reporting pursuant to Article 41 of Regulation (EU) 2021/947 of the European Parliament and of the Council ([27]), the Commission shall evaluate and report on how the financing under that Regulation has contributed to the decarbonisation of the manufacturing industry in LDCs.

CHAPTER IX

COORDINATION WITH FREE ALLOCATION OF ALLOWANCES UNDER THE EU ETS

Article 31

Free allocation of allowances under the EU ETS and obligation to surrender CBAM certificates

1. The CBAM certificates to be surrendered in accordance with Article 22 of this Regulation shall be adjusted to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 10a of Directive 2003/87/EC to installations producing, within the Union, the goods listed in Annex I to this Regulation.

2. The Commission is empowered to adopt implementing acts laying down detailed rules for the calculation of the adjustment as referred to in paragraph 1 of this Article. Such detailed rules shall be elaborated by reference to the principles applied in the EU ETS for the free allocation of allowances to installations producing, within the Union, the goods listed in Annex I, taking account of the different benchmarks used in the EU ETS for free allocation with a view to combining those benchmarks into corresponding values for the goods concerned, and taking into account relevant input materials (precursors). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).

CHAPTER X

TRANSITIONAL PROVISIONS

Article 32

Scope of the transitional period

During the transitional period from 1 October 2023 until 31 December 2025, the obligations of the importer under this Regulation shall be limited to the reporting obligations set out in Articles 33, 34 and 35 of this Regulation. Where the importer is established in a Member State and appoints an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013, and where the indirect customs representative so agrees, the reporting obligations shall apply to such indirect customs representative. Where the importer is not established in a Member State, the reporting obligations shall apply to the indirect customs representative.

([27]) Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).

Article 33

Importation of goods

1. The customs authorities shall inform the importer or, in the situations covered by Article 32, the indirect customs representative of the reporting obligation referred to in Article 35 no later than at the moment of the release of goods for free circulation.

2. The customs authorities shall periodically and automatically, in particular by means of the surveillance mechanism established pursuant to Article 56(5) of Regulation (EU) No 952/2013 or by electronic means of data transmission, communicate to the Commission information on imported goods, including processed products resulting from the outward processing procedure. Such information shall include the EORI number of the customs declarant and of the importer, the eight-digit CN code, the quantity, the country of origin, the date of the customs declaration and the customs procedure.

3. The Commission shall communicate the information referred to in paragraph 2 to the competent authorities of the Member States where the customs declarant and, where applicable, the importer are established.

Article 34

Reporting obligation for certain customs procedures

1. Where processed products resulting from the inward processing procedure as referred to in Article 256 of Regulation (EU) No 952/2013 are imported, the reporting obligation referred to in Article 35 of this Regulation shall include the information on the goods that were placed under the inward processing procedure and resulted in the imported processed products, even if the processed products are not listed in Annex I to this Regulation. This paragraph shall also apply where the processed products resulting from the inward processing procedure are returned goods as referred to in Article 205 of Regulation (EU) No 952/2013.

2. The reporting obligation referred to in Article 35 of this Regulation shall not apply to the import of:

(a) processed products resulting from the outward processing procedure as referred to in Article 259 of Regulation (EU) No 952/2013;

(b) goods qualifying as returned goods in accordance with Article 203 of Regulation (EU) No 952/2013.

Article 35

Reporting obligation

1. Each importer or, in the situations covered by Article 32, the indirect customs representative, having imported goods during a given quarter of a calendar year shall, for that quarter, submit a report ('CBAM report') containing information on the goods imported during that quarter, to the Commission, no later than one month after the end of that quarter.

2. The CBAM report shall include the following information:

(a) the total quantity of each type of goods, expressed in megawatt-hours for electricity and in tonnes for other goods, specified for each installation producing the goods in the country of origin;

(b) the actual total embedded emissions, expressed in tonnes of CO_2e emissions per megawatt-hour of electricity or for other goods in tonnes of CO_2e emissions per tonne of each type of goods, calculated in accordance with the method set out in Annex IV;

(c) the total indirect emissions calculated in accordance with the implementing act referred to in paragraph 7;

(d) the carbon price due in a country of origin for the embedded emissions in the imported goods, taking into account any rebate or other form of compensation available.

3. The Commission shall periodically communicate to the relevant competent authorities a list of those importers or indirect customs representatives established in the Member State, including the corresponding justifications, which it has reasons to believe have failed to comply with the obligation to submit a CBAM report in accordance with paragraph 1.

4. Where the Commission considers that a CBAM report is incomplete or incorrect, it shall communicate to the competent authority of the Member State where the importer is established or, in the situations covered by Article 32, the indirect customs representative is established, the additional information it considers necessary to complete or correct that report. Such information shall be provided for indicative purposes and without prejudice to the definitive appreciation by that competent authority. That competent authority shall initiate the correction procedure and notify the importer or, in the situations covered by Article 32, the indirect customs representative of the additional information necessary to correct that report. Where appropriate, that importer or that indirect customs representative shall submit a corrected report to the competent authority concerned and to the Commission.

5. Where the competent authority of the Member State referred to in paragraph 4 of this Article initiates a correction procedure, including in consideration of information received in accordance with paragraph 4 of this Article, and determines that the importer or, where applicable in accordance with Article 32, the indirect customs representative has not taken the necessary steps to correct the CBAM report, or where the competent authority concerned determines, including in consideration of information received in accordance with paragraph 3 of this Article, that the importer or, where applicable in accordance with Article 32, the indirect customs representative has failed to comply with the obligation to submit a CBAM report in accordance with paragraph 1 of this Article, that competent authority shall impose an effective, proportionate and dissuasive penalty on the importer or, where applicable in accordance with Article 32, the indirect customs representative. To that end, the competent authority shall notify the importer or, where applicable in accordance with Article 32, the indirect customs representative and inform the Commission, of the following:

(a) the conclusion, and reasons for that conclusion, that the importer or, where applicable in accordance with Article 32, the indirect customs representative has failed to comply with the obligation of submitting a report for a given quarter or to take the necessary steps to correct the report;

(b) the amount of the penalty imposed on the importer or, where applicable in accordance with Article 32, the indirect customs representative;

(c) the date from which the penalty is due;

(d) the action that the importer or, where applicable in accordance with Article 32, the indirect customs representative is to take to pay the penalty; and

(e) the right of the importer or, where applicable in accordance with Article 32, the indirect customs representative to appeal.

6. Where the competent authority, after receiving the information from the Commission under this Article, decides not to take any action, the competent authority shall inform the Commission accordingly.

7. The Commission is empowered to adopt implementing acts concerning:

(a) the information to be reported, the means and format for that reporting, including detailed information per country of origin and type of goods to support the totals referred to in paragraph 2, points (a), (b) and (c), and examples of any relevant rebate or other form of compensation available as referred to in paragraph 2, point (d);

(b) the indicative range of penalties to be imposed pursuant to paragraph 5 and the criteria to take into account for determining the actual amount, including the gravity and duration of the failure to report;

(c) detailed rules on the conversion of the yearly average carbon price due referred to in paragraph 2, point (d), expressed in foreign currency into euro at the yearly average exchange rate;

(d) detailed rules on the elements of the calculation methods set out in Annex IV, including determining system boundaries of production processes, emission factors, installation-specific values of actual emissions and their respective application to individual goods as well as laying down methods to ensure the reliability of data, including the level of detail; and

(e) the means and format for the reporting requirements for indirect emissions in imported goods; that format shall include the quantity of electricity used for the production of the goods listed in Annex I, as well as the country of origin, generation source and emission factors related to that electricity.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2) of this Regulation. They shall apply for goods imported during the transitional period referred to in Article 32 of this Regulation and shall build upon existing legislation for installations that fall within the scope of Directive 2003/87/EC.

CHAPTER XI

FINAL PROVISIONS

Article 36

Entry into force

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

2. It shall apply from 1 October 2023. However:

(a) Articles 5, 10, 14, 16 and 17 shall apply from 31 December 2024;

(b) Article 2(2) and Articles 4, 6 to 9, 15 and 19, Article 20(1), (3), (4) and (5), Articles 21 to 27 and 31 shall apply from 1 January 2026.

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

Done at Strasbourg, 10 May 2023.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	J. ROSWALL

ANNEX I

List of goods and greenhouse gases

1. For the purpose of the identification of goods, this Regulation shall apply to goods falling under the Combined Nomenclature ('CN') codes set out in the following table. The CN codes shall be those under Regulation (EEC) No 2658/87.

2. For the purposes of this Regulation, the greenhouse gases relating to goods referred to in point 1, shall be those set out in the following table for the goods concerned.

Cement

CN code	Greenhouse gas
2507 00 80 – Other kaolinic clays	Carbon dioxide
2523 10 00 – Cement clinkers	Carbon dioxide
2523 21 00 – White Portland cement, whether or not artificially coloured	Carbon dioxide
2523 29 00 – Other Portland cement	Carbon dioxide
2523 30 00 – Aluminous cement	Carbon dioxide
2523 90 00 – Other hydraulic cements	Carbon dioxide

Electricity

CN code	Greenhouse gas
2716 00 00 – Electrical energy	Carbon dioxide

Fertilisers

CN code	Greenhouse gas
2808 00 00 – Nitric acid; sulphonitric acids	Carbon dioxide and nitrous oxide
2814 – Ammonia, anhydrous or in aqueous solution	Carbon dioxide
2834 21 00 – Nitrates of potassium	Carbon dioxide and nitrous oxide
3102 – Mineral or chemical fertilisers, nitrogenous	Carbon dioxide and nitrous oxide
3105 – Mineral or chemical fertilisers containing two or three of the fertilising elements nitrogen, phosphorus and potassium; other fertilisers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg Except: 3105 60 00 – Mineral or chemical fertilisers containing the two fertilising elements phosphorus and potassium	Carbon dioxide and nitrous oxide

Iron and steel

CN code	Greenhouse gas
72 – Iron and steel Except: 7202 2 – Ferro-silicon 7202 30 00 – Ferro-silico-manganese 7202 50 00 – Ferro-silico-chromium 7202 70 00 – Ferro-molybdenum 7202 80 00 – Ferro-tungsten and ferro-silico-tungsten 7202 91 00 – Ferro-titanium and ferro-silico-titanium 7202 92 00 – Ferro-vanadium 7202 93 00 – Ferro-niobium 7202 99 – Other: 7202 99 10 – Ferro-phosphorus 7202 99 30 – Ferro-silico-magnesium 7202 99 80 – Other 7204 – Ferrous waste and scrap; remelting scrap ingots and steel	Carbon dioxide
2601 12 00 – Agglomerated iron ores and concentrates, other than roasted iron pyrites	Carbon dioxide
7301 – Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel	Carbon dioxide
7302 – Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish- plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	Carbon dioxide
7303 00 – Tubes, pipes and hollow profiles, of cast iron	Carbon dioxide
7304 – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel	Carbon dioxide
7305 – Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406,4 mm, of iron or steel	Carbon dioxide
7306 – Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel	Carbon dioxide
7307 – Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel	Carbon dioxide
7308 – Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock- gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Carbon dioxide

CN code	Greenhouse gas
7309 00 – Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7310 – Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7311 00 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide
7318 – Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel	Carbon dioxide
7326 – Other articles of iron or steel	Carbon dioxide

Aluminium

CN code	Greenhouse gas
7601 – Unwrought aluminium	Carbon dioxide and perfluorocarbons
7603 – Aluminium powders and flakes	Carbon dioxide and perfluorocarbons
7604 – Aluminium bars, rods and profiles	Carbon dioxide and perfluorocarbons
7605 – Aluminium wire	Carbon dioxide and perfluorocarbons
7606 – Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7607 – Aluminium foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7608 – Aluminium tubes and pipes	Carbon dioxide and perfluorocarbons
7609 00 00 – Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	Carbon dioxide and perfluorocarbons
7610 – Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures	Carbon dioxide and perfluorocarbons
7611 00 00 – Aluminium reservoirs, tanks, vats and similar containers, for any material (other than compressed or liquefied gas), of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons

CN code	Greenhouse gas
7612 – Aluminium casks, drums, cans, boxes and similar containers (including rigid or collapsible tubular containers), for any material (other than compressed or liquefied gas), of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons
7613 00 00 – Aluminium containers for compressed or liquefied gas	Carbon dioxide and perfluorocarbons
7614 – Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated	Carbon dioxide and perfluorocarbons
7616 – Other articles of aluminium	Carbon dioxide and perfluorocarbons

Chemicals

CN code	Greenhouse gas
2804 10 00 – Hydrogen	Carbon dioxide

ANNEX II

List of goods for which only direct emissions are to be taken into account, pursuant to Article 7(1)

Iron and steel

CN code	Greenhouse gas
72 – Iron and steel Except: 7202 2 – Ferro-silicon 7202 30 00 – Ferro-silico-manganese 7202 50 00 – Ferro-silico-chromium 7202 70 00 – Ferro-molybdenum 7202 80 00 – Ferro-tungsten and ferro-silico-tungsten 7202 91 00 – Ferro-titanium and ferro-silico-titanium 7202 92 00 – Ferro-vanadium 7202 93 00 – Ferro-niobium 7202 99 – Other: 7202 99 10 – Ferro-phosphorus 7202 99 30 – Ferro-silico-magnesium 7202 99 80 – Other 7204 – Ferrous waste and scrap; remelting scrap ingots and steel	Carbon dioxide
7301 – Sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements; welded angles, shapes and sections, of iron or steel	Carbon dioxide
7302 – Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish- plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialised for jointing or fixing rails	Carbon dioxide
7303 00 – Tubes, pipes and hollow profiles, of cast iron	Carbon dioxide
7304 – Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel	Carbon dioxide
7305 – Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406,4 mm, of iron or steel	Carbon dioxide
7306 – Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel	Carbon dioxide
7307 – Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel	Carbon dioxide
7308 – Structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, lock- gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Carbon dioxide

CN code	Greenhouse gas
7309 00 – Reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas), of iron or steel, of a capacity exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7310 – Tanks, casks, drums, cans, boxes and similar containers, for any material (other than compressed or liquefied gas), of iron or steel, of a capacity not exceeding 300 l, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide
7311 00 – Containers for compressed or liquefied gas, of iron or steel	Carbon dioxide
7318 – Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel	Carbon dioxide
7326 – Other articles of iron or steel	Carbon dioxide

Aluminium

CN code	Greenhouse gas
7601 – Unwrought aluminium	Carbon dioxide and perfluorocarbons
7603 – Aluminium powders and flakes	Carbon dioxide and perfluorocarbons
7604 – Aluminium bars, rods and profiles	Carbon dioxide and perfluorocarbons
7605 – Aluminium wire	Carbon dioxide and perfluorocarbons
7606 – Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7607 – Aluminium foil (whether or not printed or backed with paper, paper-board, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0,2 mm	Carbon dioxide and perfluorocarbons
7608 – Aluminium tubes and pipes	Carbon dioxide and perfluorocarbons
7609 00 00 – Aluminium tube or pipe fittings (for example, couplings, elbows, sleeves)	Carbon dioxide and perfluorocarbons
7610 – Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures	Carbon dioxide and perfluorocarbons
7611 00 00 – Aluminium reservoirs, tanks, vats and similar containers, for any material (other than compressed or liquefied gas), of a capacity exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons

CN code	Greenhouse gas
7612 – Aluminium casks, drums, cans, boxes and similar containers (including rigid or collapsible tubular containers), for any material (other than compressed or liquefied gas), of a capacity not exceeding 300 litres, whether or not lined or heat-insulated, but not fitted with mechanical or thermal equipment	Carbon dioxide and perfluorocarbons
7613 00 00 – Aluminium containers for compressed or liquefied gas	Carbon dioxide and perfluorocarbons
7614 – Stranded wire, cables, plaited bands and the like, of aluminium, not electrically insulated	Carbon dioxide and perfluorocarbons
7616 – Other articles of aluminium	Carbon dioxide and perfluorocarbons

Chemicals

CN code	Greenhouse gas
2804 10 00 – Hydrogen	Carbon dioxide

ANNEX III

Third countries and territories outside the scope of this Regulation for the purpose of Article 2

1. THIRD COUNTRIES AND TERRITORIES OUTSIDE THE SCOPE OF THIS REGULATION

   This Regulation shall not apply to goods originating in the following countries:

   — Iceland

   — Liechtenstein

   — Norway

   — Switzerland

   This Regulation shall not apply to goods originating in the following territories:

   — Büsingen

   — Heligoland

   — Livigno

   — Ceuta

   — Melilla

2. THIRD COUNTRIES AND TERRITORIES OUTSIDE THE SCOPE OF THIS REGULATION WITH REGARD TO THE IMPORTATION OF ELECTRICITY INTO THE CUSTOMS TERRITORY OF THE UNION

   [Third countries or territories to be added or removed by the Commission pursuant to Article 2(11).]

ANNEX IV

Methods for calculating embedded emissions for the purpose of Article 7

1. DEFINITIONS

For the purposes of this Annex and of Annexes V and VI, the following definitions apply:

(a) 'simple goods' means goods produced in a production process requiring exclusively input materials (precursors) and fuels having zero embedded emissions;

(b) 'complex goods' means goods other than simple goods;

(c) 'specific embedded emissions' means the embedded emissions of one tonne of goods, expressed as tonnes of CO_2e emissions per tonne of goods;

(d) 'CO_2 emission factor', means the weighted average of the CO_2 intensity of electricity produced from fossil fuels within a geographic area; the CO_2 emission factor is the result of the division of the CO_2 emission data of the electricity sector by the gross electricity generation based on fossil fuels in the relevant geographic area; it is expressed in tonnes of CO_2 per megawatt-hour;

(e) 'emission factor for electricity' means the default value, expressed in CO_2e, representing the emission intensity of electricity consumed in production of goods;

(f) 'power purchase agreement' means a contract under which a person agrees to purchase electricity directly from an electricity producer;

(g) 'transmission system operator' means an operator as defined in Article 2, point (35), of Directive (EU) 2019/944 of the European Parliament and of the Council [1].

2. DETERMINATION OF ACTUAL SPECIFIC EMBEDDED EMISSIONS FOR SIMPLE GOODS

For determining the specific actual embedded emissions of simple goods produced in a given installation, direct and, where applicable, indirect emissions shall be accounted for. For that purpose, the following equation is to be applied:

$$SEE_g = \frac{AttrEm_g}{AL_g}$$

Where:

SEE_g	are the specific embedded emissions of goods g, in terms of CO_2e per tonne;
$AttrEm_g$	are the attributed emissions of goods g, and
AL_g	is the activity level of the goods, being the quantity of the goods produced in the reporting period in that installation.

'Attributed emissions' mean the part of the installation's emissions during the reporting period that are caused by the production process resulting in goods g when applying the system boundaries of the production process defined by the implementing acts adopted pursuant to Article 7(7). The attributed emissions shall be calculated using the following equation:

$$AttrEm_g = DirEm + IndirEm$$

Where:

DirEm	are the direct emissions, resulting from the production process, expressed in tonnes of CO_2e, within the system boundaries referred to in the implementing act adopted pursuant to Article 7(7), and

[1] Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

IndirEm	are the indirect emissions resulting from the production of electricity consumed in the production processes of goods, expressed in tonnes of CO_2e, within the system boundaries referred to in the implementing act adopted pursuant to Article 7(7).

3. DETERMINATION OF ACTUAL EMBEDDED EMISSIONS FOR COMPLEX GOODS

For determining the specific actual embedded emissions of complex goods produced in a given installation, the following equation is to be applied:

$$SEE_g = \frac{AttrEm_g + EE_{InpMat}}{AL_g}$$

Where:

$AttrEm_g$	are the attributed emissions of goods g;
AL_g	is the activity level of the goods, being the quantity of goods produced in the reporting period in that installation, and
EE_{InpMat}	are the embedded emissions of the input materials (precursors) consumed in the production process. Only input materials (precursors) listed as relevant to the system boundaries of the production process as specified in the implementing act adopted pursuant to Article 7(7) are to be considered. The relevant EE_{InpMat} are calculated as follows:

$$EE_{ImpMat} = \sum_{i=1}^{n} M_i \cdot SEE_i$$

Where:

M_i	is the mass of input material (precursor) i used in the production process, and
SEE_i	are the specific embedded emissions for the input material (precursor) i. For SEE_i the operator of the installation shall use the value of emissions resulting from the installation where the input material (precursor) was produced, provided that that installation's data can be adequately measured.

4. DETERMINATION OF DEFAULT VALUES REFERRED TO IN ARTICLE 7(2) AND (3)

For the purpose of determining default values, only actual values shall be used for the determination of embedded emissions. In the absence of actual data, literature values may be used. The Commission shall publish guidance for the approach taken to correct for waste gases or greenhouse gases used as process input, before collecting the data required to determine the relevant default values for each type of goods listed in Annex I. Default values shall be determined based on the best available data. Best available data shall be based on reliable and publicly available information. Default values shall be revised periodically through the implementing acts adopted pursuant to Article 7(7) based on the most up-to-date and reliable information, including on the basis of information provided by a third country or group of third countries.

4.1. Default values referred to in Article 7(2)

When actual emissions cannot be adequately determined by the authorised CBAM declarant, default values shall be used. Those values shall be set at the average emission intensity of each exporting country and for each of the goods listed in Annex I other than electricity, increased by a proportionately designed mark-up. This mark-up shall be determined in the implementing acts adopted pursuant to Article 7(7) and shall be set at an appropriate level to ensure the environmental integrity of the CBAM, building on the most up-to-date and reliable information, including on the basis of information gathered during the transitional period. When reliable data for the exporting country cannot be applied for a type of goods, the default values shall be based on the average emission intensity of the X % worst performing EU ETS installations for that type of goods. The value of X shall be determined in the implementing acts adopted pursuant to Article 7(7) and shall be set at an appropriate level to ensure the environmental integrity of the CBAM, building on the most up-to-date and reliable information, including on the basis of information gathered during the transitional period.

4.2. Default values for imported electricity referred to in Article 7(3)

Default values for imported electricity shall be determined for a third country, group of third countries or region within a third country based on either specific default values, in accordance with point 4.2.1, or, if those values are not available, on alternative default values, in accordance with point 4.2.2.

Where the electricity is produced in a third country, group of third countries or region within a third country, and transits through third countries, groups of third countries, regions within a third country or Member States with the purpose of being imported into the Union, the default values to be used are those from the third country, group of third countries or region within a third country where the electricity was produced.

4.2.1. Specific default values for a third country, group of third countries or region within a third country

Specific default values shall be set at the CO_2 emission factor in the third country, group of third countries or region within a third country, based on the best data available to the Commission.

4.2.2. Alternative default values

Where a specific default value is not available for a third country, a group of third countries, or a region within a third country, the alternative default value for electricity shall be set at the CO_2 emission factor in the Union.

Where it can be demonstrated, on the basis of reliable data, that the CO_2 emission factor in a third country, a group of third countries or a region within a third country is lower than the specific default value determined by the Commission or lower than the CO_2 emission factor in the Union, an alternative default value based on that CO_2 emission factor may be used for that third country, group of third countries or region within a third country.

4.3 Default values for embedded indirect emissions

Default values for the indirect emissions embedded in a good produced in a third country shall be determined on a default value calculated on the average, of either the emission factor of the Union electricity grid, the emission factor of the country of origin electricity grid or the CO_2 emission factor of price-setting sources in the country of origin, of the electricity used for the production of that good.

Where a third country, or a group of third countries, demonstrates to the Commission, on the basis of reliable data, that the average electricity mix emission factor or CO_2 emission factor of price-setting sources in the third country or group of third countries is lower than the default value for indirect emissions, an alternative default value based on that average CO_2 emission factor shall be established for this country or group of countries.

The Commission shall adopt, no later than 30 June 2025, an implementing act pursuant to Article 7(7) to further specify which of the calculation methods determined in accordance with the first subparagraph shall apply to the calculation of default values. For that purpose, the Commission shall base itself on the most up-to-date and reliable data, including on data gathered during the transitional period, as regards the quantity of electricity used for the production of the goods listed in Annex I, as well as the country of origin, generation source and emission factors related to that electricity. The specific calculation method shall be determined on the basis of the most appropriate way to achieve both of the following criteria:

— the prevention of carbon leakage;

— ensuring the environmental integrity of the CBAM.

5. CONDITIONS FOR APPLYING ACTUAL EMBEDDED EMISSIONS IN IMPORTED ELECTRICITY

An authorised CBAM declarant may apply actual embedded emissions instead of default values for the calculation referred to in Article 7(3) if the following cumulative criteria are met:

(a) the amount of electricity for which the use of actual embedded emissions is claimed is covered by a power purchase agreement between the authorised CBAM declarant and a producer of electricity located in a third country;

(b) the installation producing electricity is either directly connected to the Union transmission system or it can be demonstrated that at the time of export there was no physical network congestion at any point in the network between the installation and the Union transmission system;

(c) the installation producing electricity does not emit more than 550 grammes of CO_2 of fossil fuel origin per kilowatt-hour of electricity;

(d) the amount of electricity for which the use of actual embedded emissions is claimed has been firmly nominated to the allocated interconnection capacity by all responsible transmission system operators in the country of origin, the country of destination and, if relevant, each country of transit, and the nominated capacity and the production of electricity by the installation refer to the same period of time, which shall not be longer than one hour;

(e) the fulfilment of the above criteria is certified by an accredited verifier, who shall receive at least monthly interim reports demonstrating how those criteria are fulfilled.

The accumulated amount of electricity under the power purchase agreement and its corresponding actual embedded emissions shall be excluded from the calculation of the country emission factor or the CO_2 emission factor used for the purpose of the calculation of indirect electricity embedded emissions in goods in accordance with point 4.3, respectively.

6. CONDITIONS TO APPLYING ACTUAL EMBEDDED EMISSIONS FOR INDIRECT EMISSIONS

An authorised CBAM declarant may apply actual embedded emissions instead of default values for the calculation referred to in Article 7(4) if it can demonstrate a direct technical link between the installation in which the imported good is produced and the electricity generation source or if the operator of that installation has concluded a power purchase agreement with a producer of electricity located in a third country for an amount of electricity that is equivalent to the amount for which the use of a specific value is claimed.

7. ADAPTATION OF DEFAULT VALUES REFERRED TO IN ARTICLE 7(2) BASED ON REGION-SPECIFIC FEATURES

Default values can be adapted to particular areas and regions within third countries where specific characteristics prevail in terms of objective emission factors. When data adapted to those specific local characteristics are available and more targeted default values can be determined, the latter may be used.

Where declarants for goods originating in a third country, a group of third countries or a region within a third country can demonstrate, on the basis of reliable data, that alternative region-specific adaptations of default values are lower than the default values determined by the Commission, such region-specific adaptations can be used.

ANNEX V

Bookkeeping requirements for information used for the calculation of embedded emissions for the purpose of Article 7(5)

1. MINIMUM DATA TO BE KEPT BY AN AUTHORISED CBAM DECLARANT FOR IMPORTED GOODS:
   1. Data identifying the authorised CBAM declarant:
      (a) name;
      (b) CBAM account number.
   2. Data on imported goods:
      (a) type and quantity of each type of goods;
      (b) country of origin;
      (c) actual emissions or default values.

2. MINIMUM DATA TO BE KEPT BY AN AUTHORISED CBAM DECLARANT FOR EMBEDDED EMISSIONS IN IMPORTED GOODS THAT ARE DETERMINED BASED ON ACTUAL EMISSIONS

   For each type of imported goods where embedded emissions are determined based on actual emissions, the following additional data shall be kept:

   (a) identification of the installation where the goods were produced;
   (b) contact information of the operator of the installation where the goods were produced;
   (c) the verification reports as set out in Annex VI;
   (d) the specific embedded emissions of the goods.

ANNEX VI

Verification principles and content of verification reports for the purpose of Article 8

1. PRINCIPLES OF VERIFICATION

The following principles shall apply:

(a) verifiers shall carry out verifications with an attitude of professional scepticism;

(b) the total embedded emissions to be declared in the CBAM declaration shall be considered as verified only if the verifier finds with reasonable assurance that the verification report is free of material misstatements and of material non-conformities regarding the calculation of embedded emissions in accordance with the rules of Annex IV;

(c) installation visits by the verifier shall be mandatory except where specific criteria for waiving the installation visit are met;

(d) for deciding whether misstatements or non-conformities are material, the verifier shall use thresholds given by the implementing acts adopted in accordance with Article 8(3).

For parameters for which no such thresholds are determined, the verifier shall use expert judgement as to whether misstatements or non-conformities, individually or when aggregated with other misstatements or non-conformities, justified by their size and nature, are to be considered material.

2. CONTENT OF A VERIFICATION REPORT

The verifier shall prepare a verification report establishing the embedded emissions of the goods and specifying all issues relevant to the work carried out and including, at least, the following information:

(a) identification of the installations where the goods were produced;

(b) contact information of the operator of the installations where the goods were produced;

(c) the applicable reporting period;

(d) name and contact information of the verifier;

(e) accreditation number of the verifier, and name of the accreditation body;

(f) the date of the installations visits, if applicable, or the reasons for not carrying out an installation visit;

(g) quantities of each type of declared goods produced in the reporting period;

(h) quantification of direct emissions of the installation during the reporting period;

(i) a description on how the installation's emissions are attributed to different types of goods;

(j) quantitative information on the goods, emissions and energy flows not associated with those goods;

(k) in case of complex goods:

(i) quantities of each input material (precursor) used;

(ii) the specific embedded emissions associated with each of the input materials (precursors) used;

(iii) if actual emissions are used: the identification of the installations where the input material (precursor) has been produced and the actual emissions from the production of that material;

(l) the verifier's statement confirming that he or she finds with reasonable assurance that the report is free of material misstatements and of material non-conformities regarding the calculation rules of Annex IV;

(m) information on material misstatements found and corrected;

(n) information of material non-conformities with calculation rules set out in Annex IV found and corrected.

REGULATION (EU) 2023/957 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 May 2023

amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

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

Whereas:

(1) The Paris Agreement ([4]), adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the 'Paris Agreement'), entered into force on 4 November 2016. The Parties to the Paris Agreement have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. That commitment has been reinforced with the adoption under the UNFCCC of the Glasgow Climate Pact on 13 November 2021, in which the Conference of the Parties to the UNFCCC, serving as the meeting of the Parties to the Paris Agreement, recognises that the impacts of climate change will be much lower at a temperature increase of 1,5 °C, compared with 2 °C, and resolves to pursue efforts to limit the temperature increase to 1,5 °C.

(2) The urgency of the need to keep the Paris Agreement goal of 1,5 °C alive has become more significant following the findings of the Intergovernmental Panel on Climate Change in its Sixth Assessment Report that global warming can only be limited to 1,5 °C if strong and sustained reductions in global greenhouse gas emissions within this decade are immediately undertaken.

(3) Tackling climate- and environmental-related challenges and reaching the objectives of the Paris Agreement are at the core of the communication of the Commission of 11 December 2019 on 'The European Green Deal' (the 'European Green Deal').

(4) 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. This transition

([1]) OJ C 152, 6.4.2022, p. 175.
([2]) OJ C 301, 5.8.2022, p. 116.
([3]) Position of the European Parliament of 18 April 2023 (not yet published in the Official Journal) and decision of the Council of 25 April 2023.
([4]) OJ L 282, 19.10.2016, p. 4.

affects workers from various sectors differently. At the same time, that transition has gender equality aspects as well as a particular impact on some disadvantaged and vulnerable groups, such as older people, persons with disabilities, persons with a minority racial or ethnic background and low and lower-middle income individuals and households. It also imposes greater challenges on certain regions, in particular structurally disadvantaged and peripheral regions, as well as on islands. It must therefore be ensured that the transition is just and inclusive, leaving no one behind.

(5) The necessity and the value of delivering on the European Green Deal have only grown in light of the very severe effects of the COVID-19 pandemic on the health, the living and working conditions and the well-being of the Union's citizens. Those effects have shown that our society and our economy need to improve their resilience in relation to external shocks and act early to prevent or mitigate the effects of external shocks in a manner that is just and results in no one being left behind, including those at risk of energy poverty. European citizens continue to express strong views that this applies in particular to climate change.

(6) The Union committed to reducing the Union's economy-wide net greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030 in the updated nationally determined contribution submitted to the UNFCCC Secretariat on 17 December 2020.

(7) Through the adoption of Regulation (EU) 2021/1119 of the European Parliament and of the Council ([5]), the Union has enshrined in legislation the objective of economy-wide climate neutrality by 2050 at the latest and the aim of achieving negative emissions thereafter. That Regulation also establishes a binding Union domestic reduction target for net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % compared to 1990 levels by 2030, and provides that the Commission is to endeavour to align all future draft measures or legislative proposals, including budgetary proposals, with the objectives of that Regulation and, in any case of non-alignment, provide the reasons for such non-alignment as part of the impact assessment accompanying those proposals.

(8) All sectors of the economy need to contribute to achieving the emission reductions established by Regulation (EU) 2021/1119. Directive 2003/87/EC of the European Parliament and of the Council ([6]) is therefore being amended to include maritime transport activities in the EU Emissions Trading System (EU ETS) in order to ensure that those activities contribute their fair share to the increased climate objectives of the Union as well as to the objectives of the Paris Agreement. It is therefore also necessary to amend Regulation (EU) 2015/757 of the European Parliament and of the Council ([7]) to take into account the inclusion of maritime transport activities in the EU ETS.

(9) Furthermore, to take into account the increased climate objectives of the Union as well as the objectives of the Paris Agreement, the scope of Regulation (EU) 2015/757 should be amended. A robust monitoring, reporting and verification system is a prerequisite for any market-based measure, efficiency standard or other relevant measure, whether applied at Union level or globally. While carbon dioxide (CO_2) emissions represent the large majority of greenhouse gas emissions from maritime transport, methane (CH_4) and nitrous oxide (N_2O) emissions represent a relevant share of such emissions. The inclusion of CH_4 and N_2O emissions in Regulation (EU) 2015/757 would be beneficial for environmental integrity and incentivising good practices, and should apply from 2024. General cargo ships below 5 000 gross tonnage but not below 400 gross tonnage represent a significant share of greenhouse gas emissions of all general cargo ships. To increase the environmental effectiveness of the monitoring, reporting and

([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) No 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

([6]) 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, 25.10.2003, p. 32).

([7]) Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

verification system, ensure a level-playing field and reduce the risk of circumvention, general cargo ships below 5 000 gross tonnage but not below 400 gross tonnage should be included in Regulation (EU) 2015/757 from 2025. Offshore ships emit a relevant share of greenhouse gas emissions. Therefore, that Regulation should also apply to offshore ships of 400 gross tonnage and above from 2025. The Commission should assess before 31 December 2024 whether additional ship types below 5 000 gross tonnage but not below 400 gross tonnage should be included in Regulation (EU) 2015/757.

(10) Regulation (EU) 2015/757 should be amended to oblige companies to report aggregated emissions data at company level and submit such data to the administering authority responsible and to submit for approval to that authority their verified monitoring plans. When performing verification at company level, the verifier should not verify the emissions reports at ship level or the reports at ship level to be submitted where there is a change of company, as those reports at ship level will have been already verified. To ensure coherence in administration and enforcement, the entity responsible for compliance with Regulation (EU) 2015/757 should be the same as the entity responsible for compliance with Directive 2003/87/EC.

(11) In order to ensure the effective functioning of the EU ETS at administrative level and to take into account the inclusion of CH_4 and N_2O emissions, as well as the inclusion of greenhouse gas emissions from offshore ships, within the scope of Regulation (EU) 2015/757, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the monitoring methods and rules and the reporting rules for emissions covered by Regulation (EU) 2015/757, as well as for any other relevant information set out in that Regulation, the rules for the approval of monitoring plans, and changes thereto, by the administering authorities responsible, the rules for the monitoring, reporting and submission of aggregated emissions data at company level and the rules for verification of aggregated emissions data at company level and for the issuance of verification reports in respect of aggregated emissions data at company level. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([8]). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(12) Since the objectives of this Regulation, namely to provide for monitoring, reporting and verification rules that are necessary for an extension of the EU ETS to maritime transport activities and to provide for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types, 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.

(13) Regulation (EU) 2015/757 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2015/757

Regulation (EU) 2015/757 is amended as follows:

(1) the title is replaced by the following:

'Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of greenhouse gas emissions from maritime transport, and amending Directive 2009/16/EC';

([8]) OJ L 123, 12.5.2016, p. 1.

(2) throughout the Regulation, except in Article 2, Article 5(2) and Article 21(5) and Annexes I and II, the term 'CO_2' is replaced by 'greenhouse gas' and any necessary grammatical changes are made;

(3) Article 1 is replaced by the following:

'*Article 1*

Subject matter

This Regulation lays down rules for the accurate monitoring, reporting and verification of greenhouse gas emissions and of other relevant information from ships arriving at, within or departing from ports under the jurisdiction of a Member State, in order to promote the reduction of greenhouse gas emissions from maritime transport in a cost effective manner.';

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

'1. This Regulation applies to ships of 5 000 gross tonnage and above in respect of the greenhouse gas emissions released during their voyages for transporting for commercial purposes cargo or passengers from such ships' last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State.

1a. From 1 January 2025, this Regulation shall also apply to general cargo ships below 5 000 gross tonnage but not below 400 gross tonnage in respect of the greenhouse gas emissions released during their voyages for transporting cargo for commercial purposes from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State, and to offshore ships below 5 000 gross tonnage but not below 400 gross tonnage in respect of the greenhouse gas emissions released during their voyages from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State.

1b. From 1 January 2025, this Regulation shall apply to offshore ships of 5 000 gross tonnage and above in respect of the greenhouse gas emissions released during their voyages from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State.

1c. The greenhouse gases covered by this Regulation are:

(a) carbon dioxide (CO_2);

(b) with regard to emissions released from 2024 onwards, methane (CH_4); and

(c) with regard to emissions released from 2024 onwards, nitrous oxide (N_2O).

Where this Regulation refers to total aggregated emissions of greenhouse gases or total aggregated greenhouse gas emitted, it shall be understood as referring to the total aggregated amounts of each gas separately.';

(5) Article 3 is amended as follows:

(a) points (a) to (d) are replaced by the following:

'(a) "greenhouse gas emissions" means the release of the greenhouse gases covered by this Regulation in accordance with Article 2(1c), first subparagraph, by ships;

(b) "port of call" means a port of call as defined in Article 3, point (z), of Directive 2003/87/EC of the European Parliament and of the Council (*);

(c) "voyage" means any movement of a ship that originates from or terminates in a port of call;

(d) "company" means the shipping company as defined in Article 3, point (w), of Directive 2003/87/EC;

_____

(*) 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, 25.10.2003, p. 32).';

(b) point (m) is replaced by the following:

'(m) "reporting period" means the period from 1 January until 31 December of any given year; for voyages starting and ending in two different years, the respective data shall be accounted under the year concerned;';

(c) the following points are added:

'(p) "administering authority responsible" means the administering authority in respect of a shipping company referred to in Article 3gf of Directive 2003/87/EC;

(q) "aggregated emissions data at company level" means the sum of emissions of the greenhouse gases covered by Directive 2003/87/EC in relation to maritime transport activities in accordance with Annex I to that Directive and to be reported by a company under that Directive, in respect of all ships under its responsibility during the reporting period.';

(6) in Article 4, the following paragraph is added:

'8. Companies shall report the aggregated emissions data at company level of the ships under their responsibility during a reporting period pursuant to Article 11a.';

(7) in Article 5, paragraph 2 is replaced by the following:

'2. The Commission is empowered to adopt delegated acts in accordance with Article 23 of this Regulation to amend Annexes I and II to this Regulation, in order to take into account the inclusion of CH_4 and N_2O emissions, as well as the inclusion of greenhouse gas emissions from offshore ships, within the scope of this Regulation, and amendments to Directive 2003/87/EC, as well as to align those Annexes with the implementing acts adopted under Article 14(1) of that Directive, with relevant international rules and with international and European standards. The Commission is also empowered to adopt delegated acts in accordance with Article 23 of this Regulation to amend Annexes I and II to this Regulation in order to refine the elements of the monitoring methods set out therein, in the light of technological and scientific developments and in order to ensure the effective operation of the EU Emissions Trading System (EU ETS) established pursuant to Directive 2003/87/EC.

By 1 October 2023, the Commission shall adopt the delegated acts to take into account the inclusion of CH_4 and N_2O emissions, as well as the inclusion of greenhouse gas emissions from offshore ships, within the scope of this Regulation, as referred to in the first subparagraph of this paragraph. The methods for monitoring CH_4 and N_2O emissions shall be based on the same principles as the methods for monitoring CO_2 emissions as set out in Annex I to this Regulation, with any adjustments necessary to reflect the nature of the relevant greenhouse gas. The methods set out in Annex I to this Regulation and the rules set out in Annex II to this Regulation shall, where appropriate, be aligned with the methods and rules set out in a Regulation of the European Parliament and of the Council on the use of renewable and low-carbon fuels in maritime transport and amending Directive 2009/16/EC.';

(8) Article 6 is amended as follows:

(a) in paragraph 3, point (b) is replaced by the following:

'(b) the name of the company and the address, telephone and email details of a contact person and the IMO unique company and registered owner identification number;';

(b) paragraph 5 is replaced by the following:

'5. Companies shall use standardised monitoring plans based on templates, and they shall submit those plans using automated systems and data exchange formats. Those templates, including the technical rules for their uniform application, and the technical rules for their automatic submission, shall be determined by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 24(2).';

(c) the following paragraphs are added:

'6. By 1 April 2024, companies shall, for each of their ships falling within the scope of this Regulation, submit to the administering authority responsible a monitoring plan that has been assessed as being in conformity with this Regulation by the verifier and that reflects the inclusion of CH_4 and N_2O emissions within the scope of this Regulation.

7. Notwithstanding paragraph 6, for ships falling within the scope of this Regulation for the first time after 1 January 2024, companies shall submit a monitoring plan in conformity with the requirements of this Regulation to the administering authority responsible without undue delay and no later than three months after each ship's first call in a port under the jurisdiction of a Member State.

8. By 6 June 2025, the administering authorities responsible shall approve the monitoring plans submitted by companies in accordance with the rules laid down in the delegated acts adopted by the Commission pursuant to the third subparagraph of this paragraph. For ships falling within the scope of Directive 2003/87/EC for the first time after 1 January 2024, the administering authority responsible shall approve the submitted monitoring plan within four months of the ship's first call in a port under the jurisdiction of a Member State, in accordance with the rules laid down in the delegated acts adopted by the Commission pursuant to the third subparagraph of this paragraph.

By 1 October 2023, the Commission shall adopt delegated acts in accordance with Article 23 to amend Articles 6 to 10 as regards the rules contained in those Articles for monitoring plans, to take into account the inclusion of CH_4 and N_2O emissions, as well as the inclusion of greenhouse gas emissions from offshore ships, within the scope of this Regulation.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation concerning rules for the approval of monitoring plans by the administering authorities responsible.';

(9) Article 7 is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. Modifications of the monitoring plan under paragraph 2, points (b), (c) and (d), of this Article shall be subject to assessment by the verifier in accordance with Article 13(1). Following the assessment, the verifier shall notify the company as to whether those modifications are in conformity. The company shall submit its modified monitoring plan to the administering authority responsible once it has received a notification from the verifier that the monitoring plan is in conformity.';

(b) the following paragraph is added:

'5. The administering authority responsible shall approve modifications of the monitoring plan under paragraph 2, points (a) to (d), in accordance with the rules laid down in the delegated acts adopted by the Commission pursuant to the second subparagraph of this paragraph.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation concerning rules for the approval of changes in the monitoring plans by the administering authorities responsible.';

(10) in Article 10, first paragraph, the following point is added:

'(k) total aggregated emissions of greenhouse gases covered by Directive 2003/87/EC in relation to maritime transport activities in accordance with Annex I to that Directive and to be reported under that Directive, together with the necessary information to justify the application of any relevant derogation from Article 12(3) of that Directive provided for in Article 12(3-e) to (3-b) thereof.';

(11) Article 11 is amended as follows:

(a) in paragraph 1, the following subparagraph is added:

'From 2025, by 31 March of each year, companies shall, for each ship under their responsibility, submit to the administering authority responsible, to the authorities of the flag States concerned for ships flying the flag of a Member State and to the Commission an emissions report for the entire reporting period of the previous year, which has been verified as satisfactory by a verifier in accordance with Article 13. The administering authority responsible may require companies to submit their emissions reports by a date earlier than 31 March, but not earlier than by 28 February.';

(b) paragraph 2 is replaced by the following:

'2. Where there is a change of company, the previous company shall submit to the administering authority responsible, to the authorities of the flag States concerned for ships flying the flag of a Member State, to the new company and to the Commission, as close as practicable to the day of the completion of the change and no later than three months thereafter, a verified report covering the same elements as the emissions report referred to in paragraph 1, but limited to the period corresponding to the activities carried out under its responsibility.';

(c) the following paragraph is added:

'4. By 1 October 2023, the Commission shall adopt delegated acts in accordance with Article 23 to amend Articles 11, 11a and 12 concerning the rules for reporting to take into account the inclusion of CH_4 and N_2O emissions, as well as the inclusion of greenhouse gas emissions from offshore ships, within the scope of this Regulation.';

(12) the following article is inserted:

'*Article 11a*

Reporting and submission of the aggregated emissions data at company level

1. Companies shall determine the aggregated emissions data at company level during a reporting period, based on the data of the emissions report and the report referred to in Article 11(2) for each ship that was under their responsibility during the reporting period, in accordance with the rules laid down in the delegated acts adopted pursuant to paragraph 4 of this Article.

2. From 2025, companies shall submit to the administering authority responsible by 31 March of each year the aggregated emissions data at company level that cover the emissions in the reporting period of the previous year to be reported under Directive 2003/87/EC in relation to maritime transport activities, in accordance with the rules laid down in the delegated acts adopted pursuant to paragraph 4 of this Article, and that have been verified in accordance with Chapter III of this Regulation.

3. The administering authority responsible may require companies to submit the verified aggregated emissions data at company level referred to in paragraph 2 by a date earlier than 31 March, but not earlier than by 28 February.

4. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation with the rules for the monitoring and reporting of the aggregated emissions data at company level and the submission of the aggregated emissions data at company level to the administering authority responsible.';

(13) Article 12 is amended as follows:

(a) the title is replaced by the following:

'Format of the emissions report and reporting of aggregated emissions data at company level';

(b) paragraph 1 is replaced by the following:

'1. The emissions report and the reporting of aggregated emissions data at company level shall be submitted using automated systems and data exchange formats, including electronic templates.';

(14) Article 13 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The verifier shall assess the conformity of the emissions report and the report referred to in Article 11(2) with the requirements laid down in Articles 8 to 12 and Annexes I and II.';

(b) the following paragraphs are added:

'5. The verifier shall assess the conformity of the aggregated emissions data at company level with the requirements laid down in the delegated acts adopted pursuant to paragraph 6.

Where the verifier concludes, with reasonable assurance, that the aggregated emissions data at company level are free from material misstatements, the verifier shall issue a verification report stating that the aggregated emissions data at company level have been verified as satisfactory in accordance with the rules laid down in the delegated acts adopted pursuant to paragraph 6.

6. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Regulation with the rules for the verification of the aggregated emissions data at company level, including the verification methods and verification procedure, and the issuance of a verification report.';

(15) Article 14 is amended as follows:

(a) in paragraph 2, point (d) is replaced by the following:

'(d) the calculations leading to the determination of the overall greenhouse gas emissions and of the total aggregated emissions of greenhouse gases covered by Directive 2003/87/EC in relation to maritime transport activities in accordance with Annex I to that Directive and to be reported under that Directive;';

(b) the following paragraph is added:

'4. When considering the verification of the aggregated emissions data at company level, the verifier shall assess the completeness of the reported data and the consistency of those reported data with the information provided by the company, including its verified emissions reports and reports referred to in Article 11(2).';

(16) in Article 15, the following paragraph is added:

'6. In respect of the verification of aggregated emissions data at company level, the verifier and the company shall comply with the verification rules laid down in the delegated acts adopted pursuant to Article 13(6). The verifier shall not verify the emissions report and the report referred to in Article 11(2) of each ship under the responsibility of the company.';

(17) in Article 16, paragraph 1 is replaced by the following:

'1. Verifiers that assess the monitoring plans, the emissions reports, the reports referred to in Article 11(2) of this Regulation and the aggregated emissions data at company level, and issue the verification reports referred to in Article 13(3) and (5) of this Regulation and documents of compliance referred to in Article 17(1) of this Regulation shall be accredited for activities within the scope of this Regulation by a national accreditation body pursuant to Regulation (EC) No 765/2008.';

(18) Article 20 is amended as follows:

(a) paragraph 3 is replaced by the following:

'3. In the case of a ship that has failed to comply with the monitoring and reporting obligations for two or more consecutive reporting periods, and where other enforcement measures have failed to ensure compliance, the competent authority of the Member State of the port of entry may, after giving the opportunity to the company concerned to submit its observations, issue an expulsion order, which shall be notified to the Commission, the European Maritime Safety Agency (EMSA), the other Member States and the flag State concerned. As a result of the issuing of such an expulsion order, every Member State, with the exception of the Member State whose flag the ship is flying, shall refuse entry of the ship concerned into any of its ports until the company fulfils its monitoring and reporting obligations in accordance with Articles 11 and 18. Where such a ship flies the flag of a Member State and enters or is found in one of its ports, the Member State concerned shall, after giving the opportunity to the company concerned to submit its observations, detain the ship until the company fulfils its monitoring and reporting obligations.

Where a ship as referred to in the first subparagraph is found in one of the ports of the Member State whose flag the ship is flying, the Member State concerned may, after giving the opportunity to the company concerned to submit its observations, issue a flag State detention order until the company fulfils its monitoring and reporting obligations. It shall inform the Commission, EMSA and the other Member States thereof.

The fulfilment of those monitoring and reporting obligations shall be confirmed by the notification of a valid document of compliance to the competent national authority which issued the expulsion order. This paragraph shall be without prejudice to international maritime rules applicable in the case of ships in distress.';

(b) in paragraph 5, the following subparagraph is added:

'The possibility of derogating under the first subparagraph shall not apply to a Member State whose authority is the administering authority responsible.';

(19) Article 21 is amended as follows:

(a) in paragraph 2, point (a) is replaced by the following:

'(a) the identity of the ship (name, company, IMO identification number and port of registry or home port);';

(b) paragraph 5 is replaced by the following:

'5. The Commission shall every two years assess the overall impact of maritime transport activities on the global climate, including through emissions or effects of greenhouse gases other than CO_2 and of particles with a global warming potential not covered by this Regulation.';

(20) the following article is inserted:

'*Article 22a*

Review

The Commission shall, no later than 31 December 2024, review this Regulation, in particular taking into account further experience gained in its implementation, inter alia, for the purpose of including ships below 5 000 gross tonnage but not below 400 gross tonnage within the scope of this Regulation with a view to a possible subsequent inclusion of such ships within the scope of Directive 2003/87/EC or to proposing other measures to reduce greenhouse gas emissions from such ships. That review shall, where appropriate, be accompanied by a legislative proposal to amend this Regulation.';

(21) Article 23 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

'2. The power to adopt delegated acts referred to in Article 5(2), Article 15(5) and Article 16(3) shall be conferred on the Commission for a period of five years from 1 July 2015.

The power to adopt delegated acts referred to in Article 6(8), Article 7(5), Article 11(4), Article 11a(4) and Article 13(6) shall be conferred on the Commission for a period of five years from 5 June 2023.

The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the respective five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 5(2), Article 6(8), Article 7(5), Article 11(4), Article 11a(4), Article 13(6), Article 15(5) and Article 16(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.';

(b) paragraph 5 is replaced by the following:

'5. A delegated act adopted pursuant to Article 5(2), Article 6(8), Article 7(5), Article 11(4), Article 11a(4), Article 13(6), Article 15(5) or Article 16(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

However, the first subparagraph, last sentence, of this paragraph shall not apply to delegated acts adopted by 1 October 2023 pursuant to Article 5(2), second subparagraph, Article 6(8), second subparagraph, or Article 11(4).'.

Article 2

Entry into force and application

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

It shall apply from 5 June 2023. However, Article 1, point (5)(a) and point (5)(b), of this Regulation, as regards Article 3, points (b), (d) and (m), of Regulation (EU) 2015/757, shall apply from 1 January 2024.

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

Done at Strasbourg, 10 May 2023.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	J. ROSWALL

DIRECTIVES

DIRECTIVE (EU) 2023/958 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 May 2023

amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

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

Whereas:

(1) Directive 2003/87/EC of the European Parliament and of the Council ([4]) established a system for greenhouse gas emission allowance trading within the Union, in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner. Aviation activities were included in the EU Emissions Trading System (EU ETS) by Directive 2008/101/EC of the European Parliament and of the Council ([5]). The European Union has competence to extend the EU ETS to all flights which depart from or arrive at an aerodrome located in a Member State.

(2) Protection of the environment is one of the most important challenges facing the Union and the rest of the world. The Paris Agreement ([6]), adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the 'Paris Agreement'), entered into force on 4 November 2016. The Parties to the Paris Agreement have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. That commitment has been reinforced with the adoption under the UNFCCC of the Glasgow Climate Pact on 13 November 2021, in which the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Paris Agreement, recognises that keeping the increase in the global average temperature to 1,5 °C above pre-industrial levels would significantly reduce the risks and impacts of climate change, and those Parties committed to strengthen their 2030 targets by the end of 2022 in order to accelerate climate action in this critical decade and to close the ambition gap with the 1,5 °C target. In order to achieve the goals of the Paris Agreement, all sectors of the economy, including international aviation, need to contribute to achieving greenhouse gas emission reductions.

([1]) OJ C 152, 6.4.2022, p. 152.
([2]) OJ C 301, 5.8.2022, p. 116.
([3]) Position of the European Parliament of 18 April 2023 (not yet published in the Official Journal) and decision of the Council of 25 April 2023.
([4]) 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, 25.10.2003, p. 32).
([5]) Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008 amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community (OJ L 8, 13.1.2009, p. 3).
([6]) OJ L 282, 19.10.2016, p. 4.

(3) Aviation accounts for 2 to 3 % of global CO_2 emissions and aviation's total climate impact is at least twice its impact from CO_2 alone. Aviation is the second biggest source of transport climate impacts after road transport. In 2022, Eurocontrol projected an increase in European aviation activity of 44 % by 2050 compared to 2019. The need for action to reduce CO_2 emissions is becoming increasingly urgent, as stated by the Intergovernmental Panel on Climate Change in its latest reports of 7 August 2021 entitled 'Climate change 2021: The Physical Science Basis', of 28 February 2022 entitled 'Climate Change 2022: Impacts, Adaptation and Vulnerability', and of 4 April 2022 entitled 'Climate Change 2022: Mitigation of Climate Change'. That report of 4 April 2022 identifies international aviation as a sector where sectoral agreements have adopted climate mitigation goals that fall far short of what would be required to achieve the long-term temperature goal of the Paris Agreement. The Union should therefore address that urgent need for action by stepping up its efforts and establishing itself as an international leader in the fight against climate change.

(4) On 27 June 2018, at the tenth meeting of its 214th session, the International Civil Aviation Organization (ICAO) Council adopted the First Edition of Annex 16, Volume IV, to the Convention on International Civil Aviation signed on 7 December 1944 (the 'Chicago Convention') – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), establishing the International Standards and Recommended Practices on Environmental Protection for CORSIA (CORSIA SARPs). The Union and its Member States are implementing CORSIA from the start of the pilot phase 2021-2023 in accordance with Council Decision (EU) 2020/954 ([7]).

(5) In line with Council Decision (EU) 2018/2027 ([8]), Member States notified the ICAO Secretariat of differences between CORSIA and the EU ETS. The objective was to preserve the Union *acquis* and future policy prerogatives, as well as the Union level of climate ambition and the exclusive roles of the European Parliament and Council in deciding the contents of Union law. Following the adoption of this Directive, the notification of differences between CORSIA and the EU ETS to the ICAO Secretariat should be updated by a second notification of differences consistent with Union law to reflect the revisions made to Directive 2003/87/EC.

(6) Tackling climate- and environmental-related challenges and reaching the goals of the Paris Agreement are at the core of the communication of the Commission of 11 December 2019 entitled 'The European Green Deal' (the 'European Green Deal').

(7) The Union committed to reducing its economy-wide net greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030 in the updated nationally determined contribution of the Union and its Member States submitted to the UNFCCC Secretariat on 17 December 2020. Aviation should contribute to those emission reduction efforts.

(8) Through the adoption of Regulation (EU) 2021/1119 of the European Parliament and of the Council ([9]), the Union has enshrined in legislation the objective of reducing emissions to net zero at the latest by 2050 and the aim of achieving negative emissions thereafter. That Regulation also establishes a binding Union intermediate domestic reduction climate target for net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % compared to 1990 levels by 2030.

(9) Amendments introduced by this Directive are essential to ensuring the integrity of the EU ETS and effectively steering the EU ETS in order for it to contribute, as a policy tool, to achieving the Union's objectives of reducing net greenhouse gas emissions by at least 55 % by 2030 and becoming climate-neutral by 2050, at the latest, as well as the aim of achieving negative emissions thereafter as laid down in Article 2(1) of Regulation (EU) 2021/1119.

([7]) Council Decision (EU) 2020/954 of 25 June 2020 on the position to be taken on behalf of the European Union within the International Civil Aviation Organization as regards the notification of voluntary participation in the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) from 1 January 2021 and the option selected for calculating aeroplane operators' offsetting requirements during the 2021-2023 period (OJ L 212, 3.7.2020, p. 14).

([8]) Council Decision (EU) 2018/2027 of 29 November 2018 on the position to be taken on behalf of the European Union within the International Civil Aviation Organization in respect of the First Edition of the International Standards and Recommended Practices on Environmental Protection – Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) (OJ L 325, 20.12.2018, p. 25).

([9]) 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) No 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

Those amendments are therefore also aimed at the implementation of the Union's contributions under the Paris Agreement as regards aviation. Therefore, the total quantity of allowances for aviation should be consolidated and subject to the linear reduction factor as referred to in Article 9 of Directive 2003/87/EC.

(10) In addition to CO_2, aviation affects the climate through non-CO_2 emissions such as oxides of nitrogen (NOx), soot particles, oxidised sulphur species, and effects from water vapour, as well as through atmospheric processes caused by such emissions, for example the formation of ozone and contrail cirrus. The climate impact of such non-CO_2 emissions depends on the type of fuel and engines used, on the location of the emissions, in particular the cruise altitude of the aircraft, and its position in terms of latitude and longitude, as well as the time of the emissions and the weather conditions at that time. Based upon the Commission's impact assessment of 2006 on the inclusion of aviation in the EU ETS, Directive 2008/101/EC recognised that aviation has an impact on the global climate through the release of non-CO_2 emissions. Article 30(4) of Directive 2003/87/EC, as amended by Directive (EU) 2018/410 of the European Parliament and of the Council ([10]), required the Commission to present an updated analysis of the non-CO_2 effects of aviation, accompanied, where appropriate, by a proposal on how best to address those effects, before 1 January 2020. To fulfil that requirement, the European Union Aviation Safety Agency (EASA) conducted an updated analysis of the non-CO_2 effects of aviation on climate change and published its study on 23 November 2020. The findings of that study confirmed what had been previously estimated, namely that the non-CO_2 climate impacts of aviation activities are, in total, at least as significant as those of CO_2 alone.

(11) It follows from the findings of the EASA's study of 23 November 2020 that non-CO_2 aviation effects, in line with the precautionary principle, can no longer be ignored. Union regulatory measures are needed to achieve reductions of emissions in line with the Paris Agreement. Therefore, the Commission should set up a monitoring, reporting and verification framework for non-CO_2 aviation effects. Building on the results of that framework, by 1 January 2028, the Commission should submit a report, and, where appropriate and based on an impact assessment, submit a legislative proposal containing mitigation measures for non-CO_2 aviation effects, by expanding the scope of the EU ETS to cover such effects.

(12) Achieving the increased climate ambition will require channelling as many resources as possible to the climate transition, which should also be a just transition. As a result, all auction revenues that are not attributed to the Union budget should be used for climate-related purposes.

(13) The total quantity of allowances for aviation should be consolidated at the level of allocation for flights for which allowances have to be surrendered in accordance with Directive 2003/87/EC. The allocation for the year 2024 should be based on the total allocation to active aircraft operators in the year 2023, reduced by the linear reduction factor as referred to in that Directive. The level of allocation should be increased to take into account the routes that were not covered by the EU ETS in the year 2023 but will be covered by the EU ETS from the year 2024 onwards.

(14) An increased share of auctioning from the year after the entry into force of this Directive should be the rule for the allocation of allowances for the aviation sector, taking into account the sector's ability to pass on the increased cost of CO_2. A gradual phase out of free allocation in 2024 and 2025 and full auctioning from 2026 should be implemented.

(15) Directive 2003/87/EC should contribute to incentivising the decarbonisation of commercial air transport. The transition from the use of fossil fuels would play a role in achieving such decarbonisation. However, considering the high level of competition between aircraft operators, the developing Union market for sustainable aviation fuels, and the significant price differential between fossil kerosene and sustainable aviation fuels, that transition should be supported by incentivising early movers. Therefore, during the period from 1 January 2024 until 31 December 2030, 20 million allowances should be reserved in order to be allocated to cover part of the remaining price differential between fossil kerosene and the eligible aviation fuels for individual aircraft operators. Those allowances should come from the pool of total allowances available for aviation and should be allocated, in a non-discriminatory manner, only for flights covered by the surrender obligation of Directive 2003/87/EC. Following an evaluation of the functioning of that reserve, the Commission could decide to submit a legislative proposal to allocate a capped and time-limited amount of allowances. Such allocation should only last until 31 December 2034.

([10]) Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p. 3).

(16) Supersonic commercial flights ceased to be available, inter alia, due to the disproportionally elevated environmental damage they caused. Nevertheless, current trends show intensive research into the re-introduction of supersonic aviation. The positive correlation between the speed of travel and the level of emissions due to fuel burn justifies treating subsonic flights differently from supersonic flights. Therefore, it is appropriate to exclude possible future supersonic flights from the support provided under this Directive for non-fossil fuels.

(17) Directive 2003/87/EC should also be amended with regard to acceptable units for compliance, to take into account the CORSIA Emissions Unit Eligibility Criteria adopted by the ICAO Council at its 216th session in March 2019 as an essential element of CORSIA. Aircraft operators based in the Union should be able to use units for compliance with CORSIA for flights to or from, or between, third countries that are considered to be participating in CORSIA. To ensure that the Union's CORSIA implementation supports the Paris Agreement goals and gives incentives for broad participation in CORSIA, the units for compliance should originate from States that are Parties to the Paris Agreement and that participate in CORSIA, and double counting should be avoided.

(18) In order to ensure uniform conditions for the use of units in accordance with Directive 2003/87/EC, implementing powers should be conferred on the Commission to adopt a list of units building on those which have been considered acceptable by the ICAO Council to use for compliance with CORSIA, and that fulfil the eligibility conditions provided for by this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([11]).

(19) In order to ensure uniform conditions for the necessary arrangements for authorisation by the participating parties, for timely adjustments to the reporting of anthropogenic emissions by sources and removals by sinks covered by the nationally determined contributions of the participating parties, and for avoidance of double counting and a net increase in global emissions, implementing powers should be conferred on the Commission to lay down detailed requirements for such arrangements. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(20) In order to ensure uniform conditions for the calculation of the offsetting requirements for CORSIA for aircraft operators based in the Union, the corresponding implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(21) As CORSIA implementation and enforcement for aircraft operators based outside the Union is meant to be solely the responsibility of the home country of those aircraft operators, aircraft operators based outside the Union should not be required to cancel units for compliance with CORSIA under this Directive.

(22) As CORSIA implementation and enforcement for aircraft operators based outside the Union is meant to be solely the responsibility of the home country of those aircraft operators, where an aircraft operator based outside the Union has significant emissions from flights within the European Economic Area (EEA), or departing from an aerodrome located in the EEA to an aerodrome located in Switzerland or in the United Kingdom, the State in which that aircraft operator is based can also notify differences regarding the application of CORSIA in respect of intra-European flights. Directive 2003/87/EC should be kept under review in light of developments in that regard.

(23) To ensure equal treatment on routes, flights to and from States that are not implementing CORSIA for the purposes of Union law other than flights departing from an aerodrome located in the EEA and arriving at an aerodrome located in the EEA, in Switzerland or in the United Kingdom should be exempt from obligations to surrender allowances or to cancel units. To incentivise full implementation of CORSIA starting in 2027, the exemption should only apply to emissions released until 31 December 2026 in relation to the surrender of allowances.

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

(24) Article 191 of the Treaty on the Functioning of the European Union (TFEU) provides that Union policy on the environment is to contribute to promoting measures at international level combating climate change and requires the Union and the Member States, within their respective spheres of competence, to cooperate with third countries and with the competent international organisations. Those objectives are also relevant for ICAO and the further development of CORSIA.

(25) Data transparency and public access to information are essential to improve accountability and enforceability. Therefore, the Commission should publish in a user-friendly manner data on aircraft operators' emissions and offsetting. Such publication would facilitate assessing the impact of CORSIA on the global reduction of CO_2 emissions and its role in achieving the goals of the Paris Agreement.

(26) Flights to and from least developed countries and small island developing States, as defined by the United Nations, not implementing CORSIA, for the purposes of Union law, other than those States whose GDP per capita equals or exceeds the Union average, should be exempt from obligations to surrender allowances or to cancel units. There should be no end date for that exemption.

(27) In order to ensure uniform conditions for exempting aircraft operators from offsetting requirements as laid down under this Directive in respect of emissions from flights to and from States applying CORSIA in a less stringent manner in its domestic law, or failing to enforce CORSIA provisions in a manner equal to all aircraft operators pursuant to this Directive, implementing powers should be conferred on the Commission to exempt aircraft operators based in the Union from offsetting requirements in respect of emissions from flights where a significant distortion of competition to the detriment of aircraft operators based in the Union occurs due to a less stringent implementation or enforcement of CORSIA in third countries. The distortion of competition could be caused by a less stringent approach to eligible units or double counting provisions. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(28) In order to ensure uniform conditions for the establishment of a level playing field on routes between two different States applying CORSIA where those States allow aircraft operators to use units other than those on the list of units for compliance adopted pursuant to an implementing act under this Directive, implementing powers should be conferred on the Commission to allow aircraft operators based in a Member State to use unit types additional to that list of units for compliance or not to be bound by the conditions for eligibility of units introduced by this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(29) The Commission should report on the implementation of CORSIA and of ICAO's basket of measures to meet the long-term global aspirational goal for international aviation of net-zero carbon emissions by 2050 (the 'long-term global aspirational goal'), adopted by the 41st ICAO Assembly on 7 October 2022.

(30) In order to facilitate progress at ICAO, the Union has on three occasions adopted time-bound derogations to the EU ETS so as to limit compliance obligations to emissions from flights between aerodromes located in the EEA, with equal treatment on routes of aircraft operators wherever they are based. The most recent derogation from the EU ETS, laid down in Regulation (EU) 2017/2392 of the European Parliament and of the Council [12], limited compliance obligations to intra-EEA flight emissions released until 2023, and envisaged potential changes to the scope of the system as regards activity to and from aerodromes located outside the EEA from 1 January 2024 onwards following the review set out in that Regulation. In order to assess the implementation of CORSIA, the pilot phase of which has begun, and how it is applied in practice, the current derogation from EU ETS obligations should be extended for surrender obligations until 31 December 2026 concerning flights operated by aircraft operators on routes not covered by CORSIA to and from relevant third countries, in respect of which EU ETS reporting and surrender obligations would otherwise apply by 31 March 2027 and 30 September 2027. That should be the last time-bound derogation to the EU ETS. A review of CORSIA should take place by 1 July 2026. If the ICAO Assembly by 31 December 2025 has not strengthened CORSIA in line with achieving its long-term global aspirational goal towards meeting the Paris Agreement goals or if the States listed in an implementing act to be adopted by the

[12] Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017 amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 (OJ L 350, 29.12.2017, p. 7).

Commission represent less than 70 % of international aviation emissions using the most recent available data, then the Commission should propose, as appropriate, that the EU ETS apply to emissions from departing flights from 2027, and that aircraft operators be able to deduct any costs incurred from CORSIA offsetting on those routes, to avoid double charging. In parallel, if a third country does not apply CORSIA from 2027, the EU ETS should apply to emissions from flights departing to that third country.

(31) Information on the use of units for compliance with offsetting requirements under CORSIA should be made publicly available in a no less transparent manner than that for information on the use of international credits under Directive 2003/87/EC until 2020 pursuant to Annex XIV of Commission Regulation (EU) No 389/2013 ([13]).

(32) On 7 October 2022 and in the context of the COVID-19 pandemic, the 41st ICAO Assembly decided to change the previous baseline of CORSIA for the period from 2024 to 2035 from the average of 2019 and 2020 CO_2 emissions to 85 % of 2019 CO_2 emissions. The average of all reported 2019 and 2020 CO_2 emissions was 435 859 594 tonnes. 2019 CO_2 emissions were 608 076 604 tonnes, and 85 % of that figure is 516 865 113 tonnes. However, the actual baseline that ICAO uses to calculate the sector growth factor is determined by using a subset of CO_2 emissions taking into account only emissions on routes that are subject to offsetting requirements. For the subset of all State pairs subject to offsetting requirements in the year 2021, the average of 2019 and 2020 CO_2 emissions is not published by ICAO but is estimated to be 245 million tonnes, and the 2019 CO_2 emissions were 341 380 188 tonnes, 85 % of which is 290 173 160 tonnes. For all State pairs expected to be subject to offsetting requirements in the year 2027, the average of 2019 and 2020 CO_2 emissions is estimated to be around 373 million tonnes, while 85 % of the corresponding 2019 CO_2 emissions is estimated to be around 439 million tonnes.

(33) In order to ensure uniform conditions for establishing a list of States which are considered to be applying CORSIA for the purposes of Directive 2003/87/EC, implementing powers should be conferred on the Commission to adopt and maintain the list of States other than EEA countries, Switzerland and the United Kingdom which are considered to be participating in CORSIA for the purposes of Union law. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

(34) The transition of the aviation sector towards sustainable aviation has to take into account the social dimension of the sector and its competitiveness, in order to ensure that that transition is socially just and provides training, reskilling and upskilling for workers. The Commission should submit a report to the European Parliament and to the Council on the application of this Directive and its social impacts on the aviation sector.

(35) Flights spanning 1 000 kilometers and less account for 6 to 9 % of total aviation CO_2 emissions. The Commission should submit a report on measures to promote a modal shift towards alternative, more sustainable modes of transport, pending technological breakthroughs and availability of zero-emission aviation fuels and aircraft.

(36) While the EU ETS has applied to flights since 2012, the 'Fit for 55' package includes additional measures which, together with the EU ETS, could have a cumulative impact on the sector. In order to safeguard air connectivity for flights serving island regions or small airports, the mechanism under this Directive, which is designed to bridge the remaining price differential between fossil fuels and alternatives thereto, should limit adverse impacts on air connectivity and mitigate the risk of carbon leakage. By 2026, the Commission should report on possible effects on air connectivity.

(37) The emission factor of jet kerosene (Jet A1 or Jet A) under the EU ETS should be aligned with the emission factor for that fuel established in CORSIA SARPs. No change in allocation levels should be made as a result of the increase in the emission factor of jet kerosene because free allocation to aviation is being gradually phased out as a result of this Directive in favour of auctioning to deliver greater emission reductions.

([13]) Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and (EU) No 1193/2011 (OJ L 122, 3.5.2013, p. 1).

(38) Renewable fuels of non-biological origin using hydrogen from renewable sources, compliant with Article 25 of Directive (EU) 2018/2001 of the European Parliament and of the Council ([14]), should be rated as producing zero emissions for the aircraft operators using them until the detailed rules for the appropriate accounting are set under this Directive.

(39) In order to establish detailed rules for the yearly calculation of the cost difference between fossil kerosene and eligible fuels in accordance with a regulation on ensuring a level playing field for sustainable air transport, for the allocation of allowances for the use of such eligible fuels, and for the calculation of the greenhouse gas emissions saved as a result of the use of such eligible fuels, as well as to establish arrangements for taking account of incentives deriving from the price of carbon and from harmonised minimum levels of taxation on fossil fuels, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in order to set out the detailed arrangements for the auctioning by Member States of aviation allowances, including the detailed arrangements for the auctioning necessary for the transfer of a share of revenue from such auctioning to the general budget of the Union as own resources. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([15]). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(40) Special consideration should be given to promoting accessibility for the outermost regions of the Union. Therefore, a temporary derogation from the EU ETS should be provided until 31 December 2030 for emissions from flights between an aerodrome located in an outermost region of a Member State and an aerodrome located in the same Member State outside that outermost region, in order to respond to the most important needs of residents in terms of employment, education and other opportunities. That derogation should, for the same reasons, cover flights between aerodromes that are both located in the same outermost region or in different outermost regions in the same Member State.

(41) Decision (EU) 2023/136 of the European Parliament and of the Council ([16]) is to apply as regards the notification to aircraft operators to be carried out by Member States by 30 November 2023 under Directive 2003/87/EC provided that the sector growth factor for 2022 emissions, to be published by ICAO, equals zero.

(42) A comprehensive approach to innovation is important to achieving the European Green Deal objectives and for the competitiveness of the European industry. This is of particular importance for sectors that are hard to decarbonise, such as aviation and shipping, where a combination of operational improvements, alternative climate-neutral fuels and technological solutions need to be deployed. Therefore, Member States should ensure that the national transposition provisions do not hamper innovations and are technologically neutral. At Union level, the necessary research and innovation efforts are supported, among other things, through Horizon Europe – the Framework Programme for Research and Innovation, which includes significant funding and new instruments for the sectors coming under the EU ETS.

(43) The Innovation Fund established by Directive 2003/87/EC is to support research on, and the development and deployment of, decarbonisation solutions, including zero-emission technologies, and reduce the climate and environmental impacts of the aviation sector. It is also to support electrification and actions to reduce the overall impacts of aviation.

([14]) 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).

([15]) OJ L 123, 12.5.2016, p. 1.

([16]) Decision (EU) 2023/136 of the European Parliament and of the Council of 18 January 2023 amending Directive 2003/87/EC as regards the notification of offsetting in respect of a global market-based measure for aircraft operators based in the Union (OJ L 19, 20.1.2023, p. 1).

(44) Since the objectives of this Directive, namely to ensure aviation's contribution to the Union's economy-wide emission reduction target and to appropriately implement CORSIA in Union law, 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 Directive does not go beyond what is necessary in order to achieve those objectives.

(45) Member States should transpose this Directive by 31 December 2023 in view of the need for urgent climate action and for all sectors to contribute to emission reduction in a cost-effective manner.

(46) Simplifications of administrative procedures and adaptation of those procedures to best practice would keep the administrative burden to a minimum.

(47) Directive 2003/87/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2003/87/EC

Directive 2003/87/EC is amended as follows:

(1) in Article 3, the following point is added:

'(v) "non-CO_2 aviation effects" means the effects on the climate of the release, during fuel combustion, of oxides of nitrogen (NOx), soot particles, oxidised sulphur species, and effects from water vapour, including contrails, from an aircraft performing an aviation activity listed in Annex I;';

(2) Article 3c is amended as follows:

(a) paragraph 2 is deleted;

(b) the following paragraphs are added:

'5. The Commission shall determine the total quantity of allowances to be allocated in respect of aircraft operators for the year 2024 on the basis of the total allocation of allowances in respect of aircraft operators that were performing aviation activities listed in Annex I in the year 2023, reduced by the linear reduction factor as referred to in Article 9, and shall publish that quantity, as well as the amount of free allocation which would have taken place in 2024 under the rules for free allocation in force prior to the amendments introduced by Directive (EU) 2023/958 of the European Parliament and of the Council (*) .

6. For the period from 1 January 2024 until 31 December 2030, a maximum of 20 million of the total quantity of allowances referred to in paragraph 5 shall be reserved in respect of commercial aircraft operators, on a transparent, equal-treatment and non-discriminatory basis, for the use of sustainable aviation fuels, and other aviation fuels that are not derived from fossil fuels, identified in a regulation on ensuring a level playing field for sustainable air transport as counting towards reaching the minimum share of sustainable aviation fuels that aviation fuel made available to aircraft operators at Union airports by aviation fuel suppliers is required to contain under that Regulation, for subsonic flights for which allowances have to be surrendered in accordance with Article 12(3) of this Directive. Where eligible aviation fuel cannot be physically attributed in an airport to a specific flight, the allowances reserved under this subparagraph shall be available for eligible aviation fuels uplifted at that airport proportionate to the emissions from flights, of the aircraft operator from that airport, for which allowances have to be surrendered in accordance with Article 12(3) of this Directive.

The allowances reserved under the first subparagraph of this paragraph shall be allocated by the Member States to cover part of or all of the price differential between the use of fossil kerosene and the use of the relevant eligible aviation fuels, taking into account incentives from the price of carbon and from harmonised minimum levels of taxation on fossil fuels. When calculating that price differential, the Commission shall take into account the technical report published by the European Union Aviation Safety Agency under a regulation on ensuring a level playing field for sustainable air transport. Member States shall ensure the visibility of funding under this paragraph in a manner corresponding to the requirements in Article 30m(1), points (a) and (b), of this Directive.

The allowances allocated under this paragraph shall cover:

(a) 70 % of the remaining price differential between the use of fossil kerosene and hydrogen from renewable energy sources, and advanced biofuels as defined in Article 2, second paragraph, point (34), of Directive (EU) 2018/2001 of the European Parliament and of the Council (**), for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive;

(b) 95 % of the remaining price differential between the use of fossil kerosene and renewable fuels of non-biological origin compliant with Article 25 of Directive (EU) 2018/2001, used in aviation, for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive;

(c) 100 % of the remaining price differential between the use of fossil kerosene and any eligible aviation fuel that is not derived from fossil fuels covered by the first subparagraph of this paragraph, at airports situated on islands smaller than 10 000 km^2 and with no road or rail link with the mainland, at airports which are insufficiently large to be defined as Union airports in accordance with a regulation on ensuring a level playing field for sustainable air transport and at airports located in an outermost region;

(d) in cases other than those referred to in points (a), (b) and (c), 50 % of the remaining price differential between the use of fossil kerosene and any eligible aviation fuel that is not derived from fossil fuels covered by the first subparagraph of this paragraph.

The allocation of allowances under this paragraph may take into account possible support from other schemes at national level.

On a yearly basis, commercial aircraft operators may apply for an allocation of allowances based on the quantity of each eligible aviation fuel referred to in this paragraph used on flights for which allowances have to be surrendered in accordance with Article 12(3) between 1 January 2024 and 31 December 2030, excluding flights for which that requirement is considered to be satisfied pursuant to Article 28a(1). If, for a given year, the demand for allowances for the use of such fuels is higher than the availability of allowances, the quantity of allowances shall be reduced in a uniform manner for all aircraft operators concerned by the allocation for that year.

The Commission shall publish in the *Official Journal of the European Union* details of the average cost difference between fossil kerosene, taking into account incentives from the price of carbon and from harmonised minimum levels of taxation on fossil fuels, and the relevant eligible aviation fuels, on a yearly basis for the previous year.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by establishing the detailed rules for the yearly calculation of the cost difference referred to in the sixth subparagraph of this paragraph, for the allocation of allowances for the use of the fuels identified in the first subparagraph of this paragraph and for the calculation of the greenhouse gas emissions saved as a result of the use of fuels as reported under the implementing act adopted pursuant to Article 14(1), and establishing the arrangements for taking into account incentives from the price of carbon and from harmonised minimum levels of taxation on fossil fuels.

By 1 January 2028, the Commission shall carry out an evaluation regarding the application of this paragraph and submit the results of that evaluation in a report to the European Parliament and to the Council in a timely manner. The report may, where appropriate, be accompanied by a legislative proposal to allocate a capped and time-limited amount of allowances until 31 December 2034 to further incentivise the use of the fuels identified in the first subparagraph of this paragraph, in particular the use of renewable fuels of non-biological origin compliant with Article 25 of Directive (EU) 2018/2001, used in aviation, for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive.

From 1 January 2028, the Commission shall evaluate the application of this paragraph in the annual report it is required to submit pursuant to Article 10(5).

7. In respect of flights departing from an aerodrome located in the EEA which arrive at an aerodrome located in the EEA, in Switzerland or in the United Kingdom, and which were not covered by the EU ETS in 2023, the total quantity of allowances to be allocated to aircraft operators shall be increased by the levels of allocations, including free allocation and auctioning, which would have been made if they were covered by the EU ETS in that year, reduced by the linear reduction factor as referred to in Article 9.

8. By way of derogation from Article 12(3), Article 14(3) and Article 16, Member States shall consider the requirements set out in those provisions to be satisfied and shall take no action against aircraft operators in respect of emissions released until 31 December 2030 from flights between an aerodrome located in an outermost region of a Member State and an aerodrome located in the same Member State, including another aerodrome located in the same outermost region or in another outermost region of the same Member State.

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(*) Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure (OJ L 130, 16.5.2023, p. 115).

(**) 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).';

(3) Article 3d is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. In the years 2024 and 2025, 15 % of the allowances referred to in Article 3c(5) and (7), as well as 25 % in 2024 and 50 % in 2025, respectively, of the remaining 85 % of those allowances, in respect of which free allocation would have taken place, shall be auctioned, except for the quantities of allowances referred to in Article 3c(6) and Article 10a(8), fourth subparagraph. The remainder of the allowances for those years shall be allocated for free.

From 1 January 2026, the entire quantity of allowances in respect of which free allocation would have taken place in that year shall be auctioned, except for the quantity of allowances referred to in Article 3c(6) and Article 10a(8), fourth subparagraph.';

(b) the following paragraph is inserted:

'1a. Allowances which are allocated for free shall be allocated to aircraft operators proportionately to their share of verified emissions from aviation activities reported for 2023. That calculation shall also take into account verified emissions from aviation activities reported in respect of flights that are only covered by the EU ETS from 1 January 2024. By 30 June of the relevant year, the competent authorities shall issue the allowances which are allocated for free for that year.';

(c) paragraph 2 is deleted;

(d) paragraphs 3 and 4 are replaced by the following:

'3. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the detailed arrangements for the auctioning by Member States of aviation allowances in accordance with paragraphs 1 and 1a of this Article, including the detailed arrangements for the auctioning which are necessary for the transfer of a share of revenue from such auctioning to the general budget of the Union as own resources in accordance with Article 311, third paragraph, of the Treaty on the Functioning of the European Union (TFEU). The quantity of allowances to be auctioned in each period by each Member State shall be proportionate to its share of the total attributed aviation emissions for all Member States for the reference year reported pursuant to Article 14(3) and verified pursuant to Article 15. For each period referred to in Article 13, the reference year shall be the calendar year ending 24 months before the start of the period to which the auction relates. The delegated acts shall ensure that the principles set out in the first subparagraph of Article 10(4) are respected.

4. Member States shall determine the use of revenues generated from the auctioning of allowances covered by this Chapter, except for the revenues established as own resources in accordance with Article 311, third paragraph, TFEU and entered in the general budget of the Union. Member States shall use the revenues generated from the auctioning of allowances or the equivalent in financial value of those revenues in accordance with Article 10(3) of this Directive.';

(4) Articles 3e and 3f are deleted;

(5) Article 11a is amended as follows:

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

'1. Subject to paragraphs 2 and 3 of this Article, aircraft operators that hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State, shall be able to use the following units to comply with their obligations to cancel units in respect of the quantity notified pursuant to Article 12(6) as laid down in Article 12(9):

(a) credits authorised by parties participating in the mechanism established under Article 6(4) of the Paris Agreement;

(b) credits authorised by the parties participating in crediting programmes which have been considered eligible by the ICAO Council as identified in the implementing act adopted pursuant to paragraph 8;

(c) credits authorised by parties to agreements pursuant to paragraph 5;

(d) credits issued in respect of Union level projects pursuant to Article 24a.

2. Units referred to in paragraph 1, points (a) and (b), may be used if the following conditions have been met:

(a) they originate from a State that is a Party to the Paris Agreement at the time of use;

(b) they originate from a State that is listed in the implementing act adopted pursuant to Article 25a(3) as participating in ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). This condition shall not apply in respect of emissions released before 2027, nor shall it apply in respect of least developed countries or small island developing States, as defined by the United Nations, except for those States whose GDP per capita equals or exceeds the Union average.

3. Units referred to in paragraph 1, points (a), (b) and (c), may be used if arrangements are in place for authorisation by the participating parties, timely adjustments are made to the reporting of anthropogenic emissions by sources and removals by sinks covered by the nationally determined contributions of the participating parties, and double counting and a net increase in global emissions are avoided.

The Commission shall adopt implementing acts laying down detailed requirements for the arrangements referred to in the first subparagraph of this paragraph, which may include reporting and registry requirements, and for listing the States or programmes which apply those arrangements. Those arrangements shall take account of flexibilities accorded to least developed countries and small island developing States in accordance with paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

(b) paragraph 4 is deleted;

(c) the following paragraph is added:

'8. The Commission shall adopt implementing acts listing units which have been considered eligible by the ICAO Council and that fulfil the conditions set out in paragraphs 2 and 3 of this Article. The Commission shall also adopt implementing acts to update that list, as appropriate. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

(6) Article 12 is amended as follows:

(a) paragraph 6 is replaced by the following:

'6. In accordance with the methodology set out in the implementing act referred to in paragraph 8 of this Article, Member States shall calculate the offsetting requirements each year for the preceding calendar year in respect of flights to, from and between States that are listed in the implementing act adopted pursuant to Article 25a(3), and in respect of flights between Switzerland or the United Kingdom and States that are listed in the implementing act adopted pursuant to Article 25a(3), and by 30 November each year inform the aircraft operators.

In accordance with the methodology set out in the implementing act referred to in paragraph 8 of this Article, Member States shall also calculate the total final offsetting requirements for a given CORSIA compliance period and, by 30 November of the year following the last year of the relevant CORSIA compliance period, inform aircraft operators that fulfil the conditions set out in the third subparagraph of this paragraph of those requirements.

Member States shall inform aircraft operators that fulfil all of the following conditions of the level of offsetting:

(a) the aircraft operators hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State; and

(b) they produce annual CO_2 emissions greater than 10 000 tonnes from the use of aeroplanes with a maximum certified take-off mass greater than 5 700 kg conducting flights covered by Annex I, other than those departing and arriving in the same Member State, including outermost regions of the same Member State, from 1 January 2021.

For the purposes of the first subparagraph, point (b), CO_2 emissions from the following types of flights shall not be taken into account:

(i) State flights;

(ii) humanitarian flights;

(iii) medical flights;

(iv) military flights;

(v) firefighting flights;

(vi) flights preceding or following a humanitarian, medical or firefighting flight provided that such flights were conducted with the same aircraft and were required to accomplish the related humanitarian, medical or firefighting activities or to reposition the aircraft after those activities for its next activity.';

(b) the following paragraphs are added:

'8. The calculation of offsetting requirements referred to in paragraph 6 of this Article for the purposes of CORSIA shall be made in accordance with a methodology to be specified by the Commission in respect of flights to, from and between States that are listed in the implementing act adopted pursuant to Article 25a(3), and of flights between Switzerland or the United Kingdom and States that are listed in the implementing act adopted pursuant to Article 25a(3).

The Commission shall adopt implementing acts specifying the methodology for the calculation of offsetting requirements for aircraft operators referred to in the first subparagraph of this paragraph.

Those implementing acts shall in particular detail further the application of the requirements following from the relevant provisions of this Directive, in particular Articles 3c, 11a, 12 and 25a, and, to the extent possible in light of the relevant provisions of this Directive, from the International Standards and Recommended Practices on Environmental Protection for CORSIA (CORSIA SARPs).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2). The first such implementing act shall be adopted by 30 June 2024.

9. Aircraft operators that hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State, shall cancel units referred to in Article 11a only in respect of the quantity notified by that Member State, in accordance with paragraph 6, in respect of the relevant CORSIA compliance period. The cancellation shall take place by 31 January 2025 for emissions in the period 2021 to 2023 and by 31 January 2028 for emissions in the period 2024 to 2026.';

(7) in Article 14, the following paragraphs are added:

'5. Aircraft operators shall report once a year on the non-CO_2 aviation effects occurring from 1 January 2025. For that purpose, the Commission shall adopt by 31 August 2024 an implementing act pursuant to paragraph 1 in order to include non-CO_2 aviation effects in a monitoring, reporting and verification framework. That monitoring, reporting and verification framework shall contain, at a minimum, the three-dimensional aircraft trajectory data available, and ambient humidity and temperature to enable a CO_2 equivalent per flight to be produced. The Commission shall ensure, subject to available resources, that tools are available to facilitate and, to the extent possible, automatise monitoring, reporting and verification in order to minimise any administrative burden.

From 1 January 2025, Member States shall ensure that each aircraft operator monitors and reports the non-CO_2 effects from each aircraft that it operates during each calendar year to the competent authority after the end of each year in accordance with the implementing acts referred to in paragraph 1.

The Commission shall submit annually from 2026, as part of the report referred to in Article 10(5), a report on the results from the application of the monitoring, reporting and verification framework referred to in the first subparagraph of this paragraph.

By 31 December 2027, based on the results from the application of the monitoring, reporting and verification framework for non-CO_2 aviation effects, the Commission shall submit a report and, where appropriate and after having first carried out an impact assessment, a legislative proposal to mitigate non-CO_2 aviation effects by expanding the scope of the EU ETS to include non-CO_2 aviation effects.

6. The Commission shall publish, at least, the following aggregated annual emissions related data from aviation activities reported to Member States or transmitted to the Commission in accordance with Commission Implementing Regulation (EU) 2018/2066 (*) and Article 7 of Commission Delegated Regulation (EU) 2019/1603 (**), at the latest three months after the respective reporting deadline and in a user-friendly manner:

(a) per aerodrome pair within the EEA:

(i) emissions from all flights;

(ii) total number of flights;

(iii) total number of passengers;

(iv) types of aircraft;

(b) per aircraft operator:

(i) data on emissions from flights within the EEA, from flights departing from the EEA, flights arriving in the EEA and flights between two third countries, broken down by State pair, and data on emissions subject to the obligation to cancel CORSIA eligible emission units;

(ii) the amount of offsetting requirements, calculated in accordance with Article 12(8);

(iii) the amount and type of credits pursuant to Article 11a used to comply with the aircraft operator's offsetting requirements referred to in point (ii) of this point;

(iv) the amount and type of fuels used for which the emission factor is zero under this Directive or which entitle the aircraft operator to receive allowances pursuant to Article 3c(6).

For points (a) and (b) of the first subparagraph, in specific circumstances where an aircraft operator operates on a very limited number of aerodrome pairs or on a very limited number of State pairs that are subject to offsetting requirements or on a very limited number of State pairs that are not subject to offsetting requirements, that aircraft operator may request the administering Member State not to publish such data at the aircraft operator level, explaining why disclosure would be considered to harm its commercial interests. Based on that request, the administering Member State may request the Commission to publish those data at a higher level of aggregation. The Commission shall decide on the request.

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(*) Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

(**) Commission Delegated Regulation (EU) 2019/1603 of 18 July 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards measures adopted by the International Civil Aviation Organisation for the monitoring, reporting and verification of aviation emissions for the purpose of implementing a global market-based measure (OJ L 250, 30.9.2019, p. 10).';

(8) Article 18a is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Where in the first two years of any period referred to in Article 13, none of the attributed aviation emissions from flights performed by an aircraft operator falling within point (b) of paragraph 1 of this Article are attributed to its administering Member State, the aircraft operator shall be transferred to another administering Member State in respect of the next period. The new administering Member State shall be the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator during the first two years of the previous period.';

(b) in paragraph 3, point (b) is replaced by the following:

'(b) from 2024, at least every two years, update the list to include aircraft operators which have subsequently performed an aviation activity listed in Annex I; where an aircraft operator has not performed an aviation activity listed in Annex I during the four consecutive calendar years preceding the updating of the list, that aircraft operator shall not be included in the list.';

(9) Article 25a is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The Union and its Member States shall continue to seek agreements on global measures to reduce greenhouse gas emissions from aviation, aligned with the objectives of Regulation (EU) 2021/1119 and of the Paris Agreement. In the light of any such agreements, the Commission shall consider whether amendments to this Directive as it applies to aircraft operators are necessary.';

(b) the following paragraphs are added:

'3. The Commission shall adopt an implementing act listing States other than EEA countries, Switzerland and the United Kingdom which are considered to be applying CORSIA for the purposes of this Directive, with a baseline of 2019 for 2021 to 2023 and a baseline of 85 % of 2019 emissions for each year from 2024. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

4. In respect of emissions released until 31 December 2026 from flights to or from States that are listed in the implementing act adopted pursuant to paragraph 3 of this Article, aircraft operators shall not be required to surrender allowances in accordance with Article 12(3) in respect of those emissions.

5. In respect of emissions released until 31 December 2026 from flights between the EEA and States that are not listed in the implementing act adopted pursuant to paragraph 3 of this Article, other than flights to Switzerland and to the United Kingdom, aircraft operators shall not be required to surrender allowances in accordance with Article 12(3) in respect of those emissions.

6. In respect of emissions from flights to and from least developed countries and small island developing States as defined by the United Nations, other than those listed in the implementing act adopted pursuant to paragraph 3 of this Article and those States whose GDP per capita equals or exceeds the Union average, aircraft operators shall not be required to surrender allowances in accordance with Article 12(3) in respect of those emissions.

7. Where the Commission determines that there is a significant distortion of competition, such as a distortion caused by a third country applying CORSIA in a less stringent manner in its domestic law or failing to enforce CORSIA provisions in an equal manner for all aircraft operators, which is detrimental to aircraft operators that hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State, the Commission shall adopt implementing acts to exempt those aircraft operators from offsetting requirements as laid down in Article 12(9) in respect of emissions from flights to and from such States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

8. Where aircraft operators that hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State, operate flights between two different States listed in the implementing act adopted pursuant to paragraph 3 of this Article, including flights that take place between Switzerland, the United Kingdom and States listed in the implementing act adopted pursuant to paragraph 3 of this Article, and those States allow aircraft operators to use units other than those on the list adopted pursuant to Article 11a(8), the Commission shall be empowered to adopt implementing acts allowing those aircraft operators to use unit types additional to those on the list or not to be bound by the conditions of Article 11a(2) and (3) in respect of emissions from such flights. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

(10) Articles 28a and 28b are replaced by the following:

'*Article 28a*

Derogations applicable in advance of the mandatory implementation of ICAO's global market-based measure

1. By way of derogation from Article 12(3), Article 14(3) and Article 16, Member States shall consider the requirements set out in those provisions to be satisfied and shall take no action against aircraft operators in respect of:

(a) all emissions from flights to and from aerodromes located in States outside the EEA, with the exception of flights to aerodromes located in the United Kingdom or Switzerland, in each calendar year from 1 January 2021 to 31 December 2026, subject to the review referred to in Article 28b;

(b) all emissions from flights between an aerodrome located in an outermost region within the meaning of Article 349 TFEU and an aerodrome located in another region of the EEA in each calendar year from 1 January 2013 to 31 December 2023, subject to the review referred to in Article 28b.

For the purposes of Articles 11a, 12 and 14, the verified emissions from flights other than those referred to in the first subparagraph of this paragraph shall be considered to be the verified emissions of the aircraft operator.

2. By way of derogation from Article 3d(3), the quantity of allowances to be auctioned by each Member State in respect of the period from 1 January 2013 to 31 December 2026 shall be reduced to correspond to its share of attributed aviation emissions from flights which are not subject to the derogations provided for in points (a) and (b) of paragraph 1 of this Article.

3. By way of derogation from Article 3g, aircraft operators shall not be required to submit monitoring plans setting out measures to monitor and report emissions in respect of flights which are subject to the derogations provided for in points (a) and (b) of paragraph 1 of this Article.

4. By way of derogation from Articles 3g, 12, 15 and 18a, where an aircraft operator has total annual emissions lower than 25 000 tonnes of CO_2, or where an aircraft operator has total annual emissions lower than 3 000 tonnes of CO_2 from flights other than those referred to in points (a) and (b) of paragraph 1 of this Article, its emissions shall be considered to be verified emissions if determined by using the small emitters tool approved under Commission Regulation (EU) No 606/2010 (*) and populated by Eurocontrol with data from its ETS support facility. Member States may implement simplified procedures for non-commercial aircraft operators as long as such procedures provide no less accuracy than the small emitters tool provides.

5. Paragraph 1 of this Article shall apply to countries with whom an agreement pursuant to Article 25 or 25a has been reached only in line with the terms of such agreement.

Article 28b

Reporting and review by the Commission concerning the implementation of ICAO's global market-based measure

1. Before 1 January 2027 and every three years thereafter, the Commission shall report to the European Parliament and to the Council on progress in the ICAO negotiations to implement the global market-based measure to be applied to emissions from 2021, in particular with regard to:

(a) the relevant ICAO instruments, including standards and recommended practices, as well as the progress in the implementation of all elements of the ICAO basket of measures towards the achievement of the long-term global aspirational goal adopted at ICAO's 41st Assembly;

(b) ICAO Council-approved recommendations relevant to the global market-based measure, including any possible changes to baselines;

(c) the establishment of a global registry;

(d) domestic measures taken by third countries to implement the global market-based measure to be applied to emissions from 2021;

(e) the level of participation in offsetting under CORSIA by third countries, including the implications of their reservations as regards such participation; and

(f) other relevant international developments and applicable instruments, as well as progress to reduce aviation's total climate change impacts.

In line with the global stocktake of the Paris Agreement, the Commission shall also report on efforts to meet the aviation sector's long-term global aspirational goal of reducing aviation CO_2 emissions to net zero by 2050, assessed in line with the criteria referred to in the first subparagraph, points (a) to (f).

2. By 1 July 2026, the Commission shall submit to the European Parliament and to the Council a report in which it shall assess the environmental integrity of ICAO's global market-based measure, including its general ambition in relation to targets under the Paris Agreement, the level of participation in offsetting under CORSIA, its enforceability, transparency, the penalties for non-compliance, the processes for public input, the quality of offset credits, monitoring, reporting and verification of emissions, registries, accountability as well as rules on the use of biofuels. The Commission shall publish that report also by 1 July 2026.

3. The Commission's report referred to in paragraph 2 shall be accompanied by a legislative proposal, where appropriate, to amend this Directive in a way that is consistent with the Paris Agreement temperature goal, the Union's economy-wide greenhouse gas emission reduction commitment for 2030 and the objective of achieving climate neutrality by 2050 at the latest, and with the aim of preserving the environmental integrity and effectiveness of the Union's climate action. An accompanying proposal shall, as appropriate, include the application of the EU ETS to departing flights from aerodromes located in States in the EEA to aerodromes located outside the EEA from January 2027 and exclude arriving flights from aerodromes located outside the EEA where the report referred to in paragraph 2 shows that:

(a) the ICAO Assembly by 31 December 2025 has not strengthened CORSIA in line with achieving its long-term global aspirational goal, towards meeting the Paris Agreement goals; or

(b) States listed in the implementing act adopted pursuant to Article 25a(3) represent less than 70 % of international aviation emissions using the most recent available data.

The accompanying proposal shall also, as appropriate, allow the possibility for aircraft operators to deduct any costs incurred from CORSIA offsetting on those routes, to avoid double charging. If the conditions referred to in the first subparagraph, points (a) and (b) of this paragraph are not met, the proposal shall amend this Directive, as appropriate, to continue applying the EU ETS only to flights within the EEA, to flights to Switzerland and to the United Kingdom and to flights to States not listed in the implementing act adopted pursuant to Article 25a(3).

(*) Commission Regulation (EU) No 606/2010 of 9 July 2010 on the approval of a simplified tool developed by the European organisation for air safety navigation (Eurocontrol) to estimate the fuel consumption of certain small emitting aircraft operators (OJ L 175, 10.7.2010, p. 25).';

(11) in Article 30, the following paragraph is added:

'8. In 2026, the Commission shall include the following elements in the report provided for in Article 10(5):

(a) an evaluation of the environmental and climate impacts of flights of less than 1 000 km and consideration of options to reduce those impacts, including an examination of the alternative modes of public transport available and the increased use of sustainable aviation fuels;

(b) an evaluation of the environmental and climate impacts of flights performed by operators exempted pursuant to point (h) or (k) of the entry 'Aviation' of the column 'Activities' in the table of Annex I, and considerations of options to reduce those impacts;

(c) an evaluation of the social impacts of this Directive in the aviation sector, including on its work force and air travel costs; and

(d) an evaluation of the air connectivity of islands and remote territories, including consideration of competitiveness and carbon leakage, as well as environmental and climate impacts.

The report provided for in Article 10(5), where appropriate, shall be also taken into account for the future revision of this Directive.';

(12) Annexes I and IV are amended in accordance with the Annex to this Directive.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2023. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

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

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 10 May 2023.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	J. ROSWALL

ANNEX

(1) In the column 'Activities' in the table in Annex I to Directive 2003/87/EC, the entry 'Aviation' is amended as follows:

(a) the following paragraph is inserted after the first paragraph:

'Flights between aerodromes that are located in two different States that are listed in the implementing act adopted pursuant to Article 25a(3) and flights between Switzerland or the United Kingdom and States that are listed in the implementing act adopted pursuant to Article 25a(3) and, for the purposes of Article 12(6) and (8) and Article 28c, any other flight between aerodromes that are located in two different third countries by aircraft operators that fulfil all of the following conditions:

(a) the aircraft operators hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State; and

(b) they produce annual CO_2 emissions greater than 10 000 tonnes from the use of aeroplanes with a maximum certified take-off mass greater than 5 700 kg conducting flights covered by this Annex, other than those departing and arriving in the same Member State, including outermost regions of the same Member State, from 1 January 2021; for the purposes of this point, emissions from the following types of flights shall not be taken into account:

(i) State flights;

(ii) humanitarian flights;

(iii) medical flights;

(iv) military flights;

(v) firefighting flights;

(vi) flights preceding or following a humanitarian, medical or firefighting flight provided that such flights were conducted with the same aircraft and were required to accomplish the related humanitarian, medical or firefighting activities or to reposition the aircraft after those activities for its next activity.';

(b) in point (i), the number '30 000' is replaced by the number '50 000'.

(2) In Part B of Annex IV to Directive 2003/87/EC, the section 'Monitoring of carbon dioxide emissions' is amended as follows:

(a) the following sentence is added at the end of the fourth paragraph:

'The emission factor for jet kerosene (Jet A1 or Jet A) shall be 3,16 (t CO_2/t fuel).';

(b) the following paragraph is inserted after the fourth paragraph:

'Emissions from renewable fuels of non-biological origin using hydrogen from renewable sources compliant with Article 25 of Directive (EU) 2018/2001 shall be rated with zero emissions for the aircraft operators using them until the implementing act referred to in Article 14(1) of this Directive is adopted.'.

DIRECTIVE (EU) 2023/959 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 May 2023

amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

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

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

Whereas:

(1) The Paris Agreement ([4]), adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the 'Paris Agreement'), entered into force on 4 November 2016. The Parties to the Paris Agreement have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. That commitment has been reinforced with the adoption under the UNFCCC of the Glasgow Climate Pact on 13 November 2021, in which the Conference of the Parties to the UNFCCC, serving as the meeting of the Parties to the Paris Agreement, recognises that the impacts of climate change will be much lower at a temperature increase of 1,5 °C, compared with 2 °C, and resolves to pursue efforts to limit the temperature increase to 1,5 °C.

(2) The urgency of the need to keep the Paris Agreement goal of 1,5 °C alive has become more significant following the findings of the Intergovernmental Panel on Climate Change in its Sixth Assessment Report that global warming can only be limited to 1,5 °C if strong and sustained reductions in global greenhouse gas emissions within this decade are immediately undertaken.

(3) Tackling climate- and environmental-related challenges and reaching the objectives of the Paris Agreement are at the core of the communication of the Commission of 11 December 2019 on 'The European Green Deal' (the 'European Green Deal').

(4) 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. This transition affects workers from various sectors differently. At the same time, that transition has gender equality aspects as well as a particular impact on some disadvantaged and vulnerable groups, such as older people, persons with disabilities,

([1]) OJ C 152, 6.4.2022, p. 175.
([2]) OJ C 301, 5.8.2022, p. 116.
([3]) Position of the European Parliament of 18 April 2023 (not yet published in the Official Journal) and decision of the Council of 25 April 2023.
([4]) OJ L 282, 19.10.2016, p. 4.

persons with a minority racial or ethnic background and low and lower-middle income individuals and households. It also imposes greater challenges on certain regions, in particular structurally disadvantaged and peripheral regions, as well as on islands. It must therefore be ensured that the transition is just and inclusive, leaving no one behind.

(5) On 17 December 2020, the Union submitted its nationally determined contribution (NDC) to the UNFCCC, following its approval by the Council. Directive 2003/87/EC of the European Parliament and of the Council ([5]), as amended by, inter alia, Directive (EU) 2018/410 of the European Parliament and of the Council ([6]), is one of the instruments cited, subject to revision in light of the enhanced 2030 target, in the general description of the target in the Annex to that submission. The Council stated in its conclusions of 24 October 2022 that it stands ready, as soon as possible after the conclusions of the negotiations on the essential elements of the 'Fit for 55' package, to update, as appropriate, the NDC of the Union and its Member States, in line with paragraph 29 of the Glasgow Climate Pact to reflect how the final outcome of the essential elements of the 'Fit for 55' package implements the Union headline target as agreed by the European Council in December 2020. As the EU Emissions Trading System (EU ETS), established by Directive 2003/87/EC, is a cornerstone of the Union's climate policy and constitutes its key tool for reducing greenhouse gas emissions in a cost-effective way, the amendments to Directive 2003/87/EC, including with regard to the scope thereof, adopted through this Directive are part of the essential elements of the 'Fit for 55' package.

(6) The necessity and the value of delivering on the European Green Deal have only grown in light of the very severe effects of the COVID-19 pandemic on the health, the living and working conditions and the well-being of the Union's citizens. Those effects have shown that our society and our economy need to improve their resilience in relation to external shocks and act early to prevent or mitigate the effects of external shocks in a manner that is just and results in no one being left behind, including those at risk of energy poverty. European citizens continue to express strong views that this applies in particular to climate change.

(7) The Union committed to reducing the Union's economy-wide net greenhouse gas emissions by at least 55 % compared to 1990 levels by 2030 in the updated NDC submitted to the UNFCCC Secretariat on 17 December 2020.

(8) Through the adoption of Regulation (EU) 2021/1119 of the European Parliament and of the Council ([7]), the Union has enshrined in legislation the objective of economy-wide climate neutrality by 2050 at the latest and the aim of achieving negative emissions thereafter. That Regulation also establishes a binding Union domestic reduction target for net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % compared to 1990 levels by 2030, and provides that the Commission is to endeavour to align all future draft measures or legislative proposals, including budgetary proposals, with the objectives of that Regulation and, in any case of non-alignment, provide the reasons for such non-alignment as part of the impact assessment accompanying those proposals.

(9) All sectors of the economy need to contribute to achieving the emission reductions established by Regulation (EU) 2021/1119. Therefore, the ambition of the EU ETS should be adjusted so as to be in line with the economy-wide net greenhouse gas emission reduction target for 2030, the objective of achieving climate neutrality by 2050 at the latest and the aim of achieving negative emissions thereafter, as laid down in Regulation (EU) 2021/1119.

([5]) 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, 25.10.2003, p. 32).

([6]) Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p. 3).

([7]) 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).

(10) The EU ETS should incentivise production from installations that partly reduce or fully eliminate greenhouse gas emissions. Therefore, the description of some categories of activities in Annex I to Directive 2003/87/EC should be amended to ensure that installations performing an activity listed in that Annex and meeting the capacity threshold related to the same activity, but not emitting any greenhouse gases, are included within the scope of the EU ETS, and thereby ensure there is equal treatment of installations in the sectors concerned. In addition, free allocation for the production of a product should take into account, as guiding principles, the circular use-potential of materials and the fact that the benchmark should be independent of the feedstock or the type of production process, where the production processes have the same purpose. It is therefore necessary to modify the definition of the products and of the processes and emissions covered for some benchmarks, to ensure a level playing field for installations using new technologies that partly reduce or fully eliminate greenhouse gas emissions, and installations using existing technologies. Notwithstanding those guiding principles, the revised benchmarks for 2026 to 2030 should continue to distinguish between primary and secondary production of steel and aluminium. It is also necessary to decouple the update of the benchmark values for refineries and for hydrogen to reflect the increasing importance of production of hydrogen, including green hydrogen, outside the refineries sector.

(11) Following the modification of the definitions of the products and of the processes and emissions covered for some benchmarks, it is necessary to ensure that producers do not receive double compensation for the same emissions with both free allocation and indirect costs compensation, and thus to adjust accordingly the financial measures to compensate indirect costs passed on in electricity prices.

(12) Council Directive 96/61/EC ([8]) was repealed by Directive 2010/75/EU of the European Parliament and of the Council ([9]). The references to Directive 96/61/EC in Article 2 of Directive 2003/87/EC and in its Annex IV should be updated accordingly. Given the need for urgent economy-wide emission reductions, Member States should be able to act to reduce greenhouse gas emissions that are within the scope of the EU ETS also through policies other than emission limits adopted pursuant to Directive 2010/75/EU.

(13) In its communication of 12 May 2021 entitled 'Pathway to a Healthy Planet for All - EU Action Plan: Towards Zero Pollution for Air, Water and Soil', the Commission calls for the steering of the Union towards zero pollution by 2050, by reducing air, freshwater, sea and soil pollution to levels which are no longer expected to be harmful for health and natural ecosystems. Measures under Directive 2010/75/EU, as the main instrument regulating air, water and soil pollutant emissions, will often also enable greenhouse gas emissions to be reduced. In line with Article 8 of Directive 2003/87/EC, Member States should ensure coordination between the permit requirements of Directive 2003/87/EC and those of Directive 2010/75/EU.

(14) Recognising that new innovative technologies will often allow emissions of both greenhouse gases and pollutants to be reduced, it is important to ensure synergies between measures delivering reductions of emissions of both greenhouse gases and pollutants, in particular Directive 2010/75/EU, and review their effectiveness in this regard.

(15) The definition of electricity generators was used to determine the maximum amount of free allocation to industry in the period from 2013 to 2020, but led to different treatment of cogeneration power plants compared to industrial installations. In order to incentivise the use of high efficiency cogeneration and to level the playing field for all installations receiving free allocation for heat production and district heating, all references to electricity generators in Directive 2003/87/EC should be deleted. In addition, Commission Delegated Regulation (EU) 2019/331 ([10]) specifies the details relating to the eligibility of all industrial processes for free allocation. Therefore, the provisions on carbon capture and storage in Article 10a(3) of Directive 2003/87/EC have become obsolete and should be deleted.

([8]) Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (OJ L 257, 10.10.1996, p. 26).

([9]) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

([10]) Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8).

(16) Greenhouse gases that are not directly released into the atmosphere should be considered emissions under the EU ETS and allowances should be surrendered for those emissions unless they are stored in a storage site in accordance with Directive 2009/31/EC of the European Parliament and of the Council ([11]), or they are permanently chemically bound in a product so that they do not enter the atmosphere under normal use and do not enter the atmosphere under any normal activity taking place after the end of the life of the product. The Commission should be empowered to adopt delegated acts specifying the conditions according to which greenhouse gases are to be considered as permanently chemically bound in a product so that they do not enter the atmosphere under normal use and do not enter the atmosphere under any normal activity after the end of the life of the product, including obtaining a carbon removal certificate, where appropriate, in view of regulatory developments with regard to the certification of carbon removals. Normal activity after the end of the life of the product should be understood broadly, covering all the activities taking place after the end of the life of the product, including reuse, remanufacturing, recycling and disposal, such as incineration and landfill.

(17) International maritime transport activity, consisting of voyages between ports under the jurisdiction of two different Member States or between a port under the jurisdiction of a Member State and a port outside the jurisdiction of any Member State, has been the only means of transportation not included in the Union's past commitments to reduce greenhouse gas emissions. Emissions from fuel sold in the Union for voyages that depart in one Member State and arrive in a different Member State or a third country have grown by around 36 % since 1990. Those emissions represent close to 90 % of all Union navigation emissions, as emissions from fuel sold in the Union for voyages departing from and arriving in the same Member State have been reduced by 26 % since 1990. In a business-as-usual scenario, emissions from international maritime transport activities are projected to grow by around 14 % between 2015 and 2030 and by 34 % between 2015 and 2050. If the climate change impact of maritime transport activities grows as projected, it would significantly undermine reductions made by other sectors to combat climate change and therefore to achieve the economy-wide net greenhouse gas emission reduction target for 2030, the Union's climate-neutrality objective by 2050 at the latest, and the aim of achieving negative emissions thereafter, as laid down in Regulation (EU) 2021/1119, and the objectives of the Paris Agreement.

(18) In 2013, the Commission adopted a strategy for progressively integrating maritime transport emissions into the Union's policy for reducing greenhouse gas emissions. As a first step in this approach, the Union established a system to monitor, report and verify emissions from maritime transport in Regulation (EU) 2015/757 of the European Parliament and of the Council ([12]), to be followed by the laying down of reduction targets for maritime transport and the application of a market-based measure. In line with the commitment of the co-legislators expressed in Directive (EU) 2018/410, action by the International Maritime Organization (IMO) or the Union should start from 2023, including preparatory work on adoption and implementation of a measure ensuring that the sector duly contributes to the efforts needed to achieve the objectives agreed under the Paris Agreement, and due consideration being given by all stakeholders.

(19) Pursuant to Directive (EU) 2018/410, the Commission should report to the European Parliament and to the Council on the progress achieved in the IMO towards an ambitious emission reduction objective, and on accompanying measures to ensure that maritime transport duly contributes to the efforts needed to achieve the objectives agreed under the Paris Agreement. Efforts to limit global maritime emissions through the IMO are under way and should be encouraged, including the rapid implementation of the Initial IMO Strategy on Reduction of Greenhouse Gas Emissions from Ships, adopted in 2018, which also refers to possible market-based measures to incentivise greenhouse gas emission reductions from international shipping. However, while recently there has been progress in the IMO, this has so far not been sufficient to achieve the objectives of the Paris Agreement. Given the international character of shipping, it is important that the Member States and the Union within their respective competences work with third countries to step up diplomatic efforts to strengthen global measures and make progress on the development of a global market-based measure at IMO level.

([11]) Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).

([12]) Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

(20) Carbon dioxide (CO_2) emissions from maritime transport account for around 3 to 4 % of Union emissions. In the European Green Deal, the Commission stated its intention to take additional measures to address greenhouse gas emissions from maritime transport through a basket of measures to enable the Union to reach its emission reduction targets. In this context, Directive 2003/87/EC should be amended to include maritime transport in the EU ETS in order to ensure that that sector contributes its fair share to the increased climate objectives of the Union as well as to the objectives of the Paris Agreement, which in Article 4(4) states that developed countries should continue to take the lead by undertaking economy-wide emission reduction targets, while developing countries are encouraged to move over time towards economy-wide emission reduction or limitation targets. While emissions from international aviation outside Europe were to be capped from January 2021 by global market-based action, an action that caps or puts a price on maritime transport emissions is not yet in place. It is therefore appropriate that the EU ETS cover a share of the emissions from voyages between a port under the jurisdiction of a Member State and a port under the jurisdiction of a third country, with the third country being able to decide on appropriate action in respect of the other share of emissions.

The extension of the EU ETS to maritime transport should thus include half of the emissions from ships performing voyages arriving at a port under the jurisdiction of a Member State from a port outside the jurisdiction of a Member State, half of the emissions from ships performing voyages departing from a port under the jurisdiction of a Member State and arriving at a port outside the jurisdiction of a Member State, all of the emissions from ships performing voyages arriving at a port under the jurisdiction of a Member State from a port under the jurisdiction of a Member State, and all of the emissions within a port under the jurisdiction of a Member State. This approach has been noted as a practical way to solve the issue of common but differentiated responsibilities and capabilities, which has been a longstanding challenge in the UNFCCC context. The coverage of a share of the emissions from both incoming and outgoing voyages between the Union and third countries ensures the effectiveness of the EU ETS, in particular by increasing the environmental impact of the measure compared to a geographical scope limited to voyages within the Union, while limiting the risk of evasive port calls and the risk of delocalisation of transhipment activities outside the Union. To ensure a smooth inclusion of the sector in the EU ETS, the surrendering of allowances by shipping companies should be gradually increased with respect to verified emissions reported for the years 2024 and 2025.

To protect the environmental integrity of the system, where fewer allowances are surrendered compared to verified emissions for maritime transport during those years, once the difference between verified emissions and allowances surrendered has been established each year, an amount of allowances corresponding to that difference should be cancelled. From 2026, shipping companies should surrender the number of allowances corresponding to all of their verified emissions. While the climate impact of maritime transport is mainly due to its CO_2 emissions, non-CO_2 emissions represent a significant share of emissions from ships. According to the Fourth IMO Greenhouse Gas Study 2020, methane emissions increased significantly over the period from 2012 to 2018. Methane and nitrous oxide emissions will likely grow over time, in particular with the development of vessels powered by liquefied natural gases or other energy sources. The inclusion of methane and nitrous oxide emissions would be beneficial for environmental integrity and for incentivising good practices. Those emissions should first be included in Regulation (EU) 2015/757 from 2024, and they should be included in the EU ETS from 2026.

(21) The extension of the scope of Directive 2003/87/EC to maritime transport will lead to changes in the cost of such transport. All parts of the Union will be affected by that extension of scope as the goods transported to and from ports within the Union by maritime transport have their origin or destination in the different Member States, including in landlocked Member States. The allocation of allowances to be auctioned by the Member States should therefore, in principle, not change as a consequence of the inclusion of maritime transport activities, and should include all Member States. However, Member States will be affected to different extents. In particular, Member States with a high reliance on shipping will be most exposed to the effect of the extension. Member States with a large maritime sector compared to their relative size will be more affected by the extension of the EU ETS to maritime transport. It is therefore appropriate to provide additional time-limited assistance to those Member States in the form of additional allowances to support decarbonisation of maritime activities and for the administrative costs incurred. The assistance should be gradually introduced in parallel with the introduction of surrender obligations and thus with the increased effect on those Member States. Within the context of the review of Directive 2003/87/EC, the Commission should consider the relevance of that additional assistance in light, in particular, of the development in the number of shipping companies under the responsibility of different Member States.

(22) The EU ETS should contribute significantly to reducing greenhouse gas emissions from maritime activities and to increasing efficiency in relation to such activities. The use of EU ETS revenues pursuant to Article 10(3) of Directive 2003/87/EC should include, inter alia, the promotion of climate-friendly transport and public transport in all sectors.

(23) Renewing fleets of ice-class ships and developing innovative technology that reduces the emissions of such ships will take time and require financial support. Currently, the design of ice-class ships, which enables them to sail in ice conditions, leads to such ships consuming more fuel and emitting more than ships of similar size designed for sailing only in open water. Therefore, a flag-neutral method should be implemented under this Directive allowing for a reduction, until 31 December 2030, of allowances to be surrendered by shipping companies on the basis of their ships' ice class.

(24) Islands with no road or rail link with the mainland are more dependent on maritime transport than the other regions and depend on maritime links for their connectivity. In order to assist islands with a small population to remain connected following the inclusion of maritime transport activities within the scope of Directive 2003/87/EC, it is appropriate to provide for the possibility for a Member State to request a temporary derogation from the surrender obligations under that Directive for certain maritime transport activities with islands with a population of fewer than 200 000 permanent residents.

(25) It should be possible for Member States to request that a transnational public service contract or a transnational public service obligation between two Member States be temporarily exempted from certain obligations under Directive 2003/87/EC. That possibility should be limited to connections between a Member State without a land border with another Member State and the geographically closest Member State, such as the maritime connection between Cyprus and Greece, which has been absent for over two decades. That temporary derogation would contribute to addressing the compelling need to provide a service of general interest and ensure connectivity as well as economic, social and territorial cohesion.

(26) Taking into account the special characteristics and permanent constraints of the outermost regions of the Union as recognised in Article 349 of the Treaty on the Functioning of the European Union (TFEU), and given their heavy dependence on maritime transport, special consideration should be given to preserving the accessibility of such regions and efficient connectivity by means of maritime transport. Therefore, a temporary derogation from certain obligations pursuant to Directive 2003/87/EC should be provided for emissions from maritime transport activities between a port located in an outermost region of a Member State and a port located in the same Member State, including ports located in the same outermost region and in another outermost region of the same Member State.

(27) The provisions of Directive 2003/87/EC as regards maritime transport activities should be kept under review in light of future international developments and efforts undertaken to achieve the objectives of the Paris Agreement, including the second global stocktake in 2028, and subsequent global stocktakes every five years thereafter, intended to inform successive NDCs. Those provisions should also be reviewed in the event of the adoption by the IMO of a global market-based measure to reduce greenhouse gas emissions from maritime transport. To this end, the Commission should present a report to the European Parliament and to the Council within 18 months of the adoption of such a measure and before it becomes operational. The Commission should in that report examine that global market-based measure as regards its ambition in light of the objectives of the Paris Agreement, its overall environmental integrity, including in comparison with the provisions of Directive 2003/87/EC covering maritime transport, and any issue related to the coherence of the EU ETS and that measure. In particular, the Commission should in its report take into account the level of participation in that global market-based measure, its enforceability, transparency, penalties for non-compliance, the processes for public input, the monitoring, reporting and verification of emissions, registries and accountability. Where appropriate, the report should be accompanied by a legislative proposal to amend Directive 2003/87/EC in a manner that is consistent with the Union 2030 climate target and the climate-neutrality objective set out in Regulation (EU) 2021/1119, and with the aim of preserving the environmental integrity and effectiveness of Union climate action, in order to ensure coherence between the implementation of the global market-based measure and the EU ETS, while avoiding any significant double burden, and thereby recalling the Union's competence to regulate its share of emissions from international shipping voyages, in line with the obligations of the Paris Agreement.

(28) With the increased costs of shipping which the extension of Directive 2003/87/EC to maritime transport activities entails, there is, in the absence of a global market-based measure, a risk of evasion. Evasive port calls to ports outside of the Union and relocation of transhipment activities to ports outside of the Union will not only diminish the environmental benefits of internalising the cost of emissions from maritime transport activities but can also lead to additional emissions due to the extra distance travelled to evade the requirements of Directive 2003/87/EC. It is therefore appropriate to exclude from the definition of 'port of call' certain stops at non-Union ports. That exclusion should be targeted at ports in the Union's vicinity where the risk of evasion is greatest. A limit of 300 nautical miles from a port under the jurisdiction of a Member State constitutes a proportionate response to evasive behaviour, balancing the additional burden and the risk of evasion. Moreover, the exclusion from the definition of 'port of call' should only apply to stops by container ships at certain non-Union ports, where the transhipment of containers accounts for most container traffic. For such shipments, the risk of evasion, in the absence of mitigating measures, also consists in port hubs being shifted to ports outside the Union, aggravating the effects of the evasion. To ensure the proportionality of the measure and that it results in equal treatment, account should be taken of measures in third countries that have an effect equivalent to Directive 2003/87/EC.

(29) The Commission should review the functioning of Directive 2003/87/EC in relation to maritime transport activities in the light of experience in applying that Directive, including detecting evasive behaviour in order to prevent such behaviour at an early stage, and should then propose measures to ensure the effectiveness of that Directive. Such measures could include increased surrender requirements for voyages where the evasion risk is higher, such as to and from a port that is located in the Union's vicinity, in a third country that has not adopted measures similar to Directive 2003/87/EC.

(30) Emissions from ships below 5 000 gross tonnage represent less than 15 % of emissions from ships, taking into account the scope of application of this Directive, but are emitted by a large number of ships. For reasons of administrative practicability, it is too early to include ships below 5 000 gross tonnage in the EU ETS from the start of the inclusion of maritime transport, but their inclusion in the future would improve the effectiveness of the EU ETS and potentially reduce evasive behaviour with the use of ships below the 5 000 gross tonnage threshold. Therefore, no later than 31 December 2026, the Commission should present a report to the European Parliament and to the Council in which it should examine the feasibility and economic, environmental and social impacts of the inclusion in Directive 2003/87/EC of emissions from ships below 5 000 gross tonnage, including offshore ships.

(31) The person or organisation responsible for the compliance with the EU ETS should be the shipping company, defined as the shipowner or any other organisation or person, such as the manager or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the shipowner and that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Management Code for the Safe Operation of Ships and for Pollution Prevention. This definition is based on the definition of 'company' in Article 3, point (d), of Regulation (EU) 2015/757, and in line with the global data collection system established in 2016 by the IMO.

(32) The emissions from a ship depend, inter alia, on the vessel energy efficiency measures taken by the shipowner, and on the fuel, the cargo carried and the route and the speed of the ship, which can be under the control of a different entity from the shipowner. The responsibilities for purchasing fuel or taking operational decisions that affect the greenhouse gas emissions of the ship can be assumed by an entity other than the shipping company under a contractual arrangement. At the time the contract is negotiated, the latter aspects, in particular, would not be known and thus the ultimate emissions from the ship covered by Directive 2003/87/EC would be uncertain. However, unless the carbon costs were passed on to the entity operating the ship, the incentives to implement operational measures for fuel efficiency would be limited. In line with the 'polluter pays' principle and to encourage the adoption of efficiency measures and the uptake of cleaner fuels, the shipping company should therefore be entitled, under national law, to claim reimbursement for the costs arising from the surrender of allowances from the entity that is directly responsible for the decisions affecting the greenhouse gas emissions of the ship.

While such a mechanism of reimbursement could be subject to a contractual arrangement, Member States should, to reduce administrative costs, not be obliged to ensure or check the existence of such contracts, but should instead provide for, in national law, a statutory entitlement for the shipping company to be reimbursed and the corresponding access to justice to enforce that entitlement. For the same reasons, that entitlement, including any possible conflict relating to the reimbursement between the shipping company and the entity operating the ship, should not affect the obligations of the shipping company vis-à-vis the administering authority in respect of a shipping company or the enforcement measures that might be necessary against such a company to ensure there is full compliance by that company with Directive 2003/87/EC. At the same time, as the purpose served by the provision concerning the entitlement to reimbursement is closely connected with the Union, in particular in relation to the compliance with obligations under this Directive by a shipping company vis-à-vis a given Member State, it is important that that entitlement be observed throughout the Union, in all contractual relations that allow an entity other than the shipowner to determine the cargo carried or the route and the speed of the ship, in a manner that safeguards undistorted competition in the internal market, which can include provisions preventing parties to such contractual agreements from circumventing the entitlement to reimbursement by including a choice of law clause.

(33) In order to reduce the administrative burden on shipping companies, one Member State should be responsible for each shipping company. The Commission should publish an initial list of shipping companies that performed a maritime transport activity falling within the scope of the EU ETS, which specifies the administering authority in respect of a shipping company. The list should be updated regularly and at least every two years to reattribute shipping companies to another such administering authority as relevant. For shipping companies registered in a Member State, the administering authority in respect of a shipping company should be that Member State. For shipping companies registered in a third country, the administering authority in respect of a shipping company should be the Member State in which the shipping company had the greatest estimated number of port calls from voyages falling within the scope of Directive 2003/87/EC in the preceding four monitoring years. For shipping companies which are registered in a third country and which did not perform any voyage falling within the scope of Directive 2003/87/EC in the preceding four monitoring years, the administering authority in respect of a shipping company should be the Member State where a ship of the shipping company started or ended its first voyage falling within the scope of that Directive. The Commission should publish and update, as relevant, on a biennial basis a list of shipping companies falling within the scope of Directive 2003/87/EC, specifying the administering authority in respect of a shipping company. In order to ensure equal treatment of shipping companies, Member States should follow harmonised rules for the administration of shipping companies for which they have responsibility, in accordance with detailed rules to be established by the Commission.

(34) Member States should ensure that the shipping companies that they administer comply with the requirements of Directive 2003/87/EC. In the event that a shipping company fails to comply with those requirements and any enforcement measures taken by the administering authority in respect of a shipping company have failed to ensure compliance, Member States should act in solidarity. As a last resort measure, Member States, except for the Member State whose flag the ship is flying, should be able to refuse entry to the ships under the responsibility of the shipping company concerned, and the Member State whose flag the ship is flying should be able to detain that ship.

(35) Shipping companies should monitor and report their aggregated emissions data from maritime transport activities at company level in accordance with the rules laid down in Regulation (EU) 2015/757. The reports on aggregated emissions data at company level should be verified in accordance with the rules laid down in that Regulation. When performing verification at company level, the verifier should not verify the emissions reports at ship level or the reports at ship level to be submitted where there is a change of company, as those reports at ship level will have been already verified.

(36) Based on experience from similar tasks related to environmental protection, the European Maritime Safety Agency (EMSA) or another relevant organisation should, as appropriate and in accordance with its mandate, assist the Commission and the administering authorities in respect of a shipping company in relation to the implementation of Directive 2003/87/EC. Owing to its experience with the implementation of Regulation (EU) 2015/757 and its IT tools, EMSA should assist the administering authorities in respect of a shipping company, in particular as regards the monitoring, reporting and verification of emissions generated by maritime transport activities under the scope of Directive 2003/87/EC, by facilitating the exchange of information or developing guidelines and criteria. The

Commission, assisted by EMSA, should endeavour to develop appropriate monitoring tools, as well as guidance to facilitate and coordinate verification and enforcement activities related to the application of Directive 2003/87/EC to maritime transport. As far as practicable, such tools should be made available to the Member States and the verifiers in order to better ensure robust enforcement of the national measures transposing Directive 2003/87/EC.

(37) In parallel to the adoption of this Directive, Regulation (EU) 2015/757 is being amended to provide for monitoring, reporting and verification rules that are necessary for an extension of the EU ETS to maritime transport activities and to provide for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types.

(38) Regulation (EU) 2017/2392 of the European Parliament and of the Council ([13]) amended Article 12(3) of Directive 2003/87/EC to allow all operators to use all allowances that are issued. The requirement for greenhouse gas emissions permits to contain an obligation to surrender allowances, pursuant to Article 6(2), point (e), of that Directive, should be aligned accordingly.

(39) Achieving the Union's emission reduction target for 2030 will require a reduction in the emissions of the sectors covered by the EU ETS of 62 % compared to 2005. The Union-wide quantity of allowances of the EU ETS needs to be reduced to create the necessary long-term carbon price signal and impetus for that degree of decarbonisation. The total quantity of allowances should be reduced in 2024 and 2026 to bring it more in line with actual emissions. Moreover, the linear reduction factor should be increased in 2024 and in 2028, also taking into account the inclusion of emissions from maritime transport. The steeper cap trajectory resulting from those changes will lead to significantly greater levels of cumulative emission reductions up to 2030 than would have occurred pursuant to Directive (EU) 2018/410. The figures relating to the inclusion of maritime transport should be derived from the emissions from maritime transport activities that are addressed in Article 3ga of Directive 2003/87/EC and reported in accordance with Regulation (EU) 2015/757 for 2018 and 2019 in the Union and the States of the European Economic Area and the European Free Trade Association, adjusted, from 2021 until 2024, by the linear reduction factor for the year 2024. The linear reduction factor should be applied in 2024 to the increase of the Union-wide quantity of allowances in that year.

(40) Achieving the increased climate ambition will require substantial public and private resources in the Union as well as in Member States to be dedicated to the climate transition. To complement and reinforce the substantial climate-related spending in the Union budget, all auction revenues that are not attributed to the Union budget in the form of own resources, or the equivalent financial value of such auction revenues, should be used for climate-related purposes, with the exception of the revenues used for the compensation of indirect carbon costs. The list of climate-related purposes in Article 10(3) of Directive 2003/87/EC should be expanded to cover additional purposes with a positive environmental impact. This should include use for financial support to address social aspects in lower- and middle-income households by reducing distortive taxes and targeted reductions of duties and charges for renewable electricity. Member States should report annually on the use of auctioning revenues in accordance with Article 19 of Regulation (EU) 2018/1999 of the European Parliament and of the Council ([14]), specifying, where relevant and as appropriate, which revenues are used and the actions that are taken to implement their integrated national energy and climate plans and their territorial just transition plans.

([13]) Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017 amending Directive 2003/87/EC to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 (OJ L 350, 29.12.2017, p. 7).

([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).

(41) Member States' auctioning revenues will increase as a result of the inclusion of maritime transport in the EU ETS. Therefore, Member States are encouraged to increase the use of EU ETS revenues pursuant to Article 10(3) of Directive 2003/87/EC to contribute to the protection, restoration and better management of marine-based ecosystems, in particular marine protected areas.

(42) Significant financial resources are needed to implement the goals of the Paris Agreement in developing countries and the Glasgow Climate Pact urges developed country Parties to urgently and significantly scale up their provision of climate finance. In its conclusions on the Preparations for the 27th Conference of the Parties to the UNFCCC (COP 27), the Council recalls that the Union and its Member States are the largest contributor to international public climate finance and have more than doubled their contribution to climate finance to support developing countries since 2013. In those conclusions, the Council also renews the strong commitment made by the Union and its Member States to continue scaling up their international climate finance towards the developed countries' goal of mobilising at least USD 100 billion per year as soon as possible and through to 2025 from a wide variety of sources, and expects the goal to be met in 2023.

(43) To address the distributional and social effects of the transition in low-income Member States, an additional amount of 2,5 % of the Union-wide quantity of allowances from 2024 to 2030 should be used to fund the energy transition of the Member States with a gross domestic product (GDP) per capita below 75 % of the Union average in the years 2016 to 2018, through the Modernisation Fund referred to in Article 10d of Directive 2003/87/EC.

(44) The beneficiary Member States should be able to use the resources allocated to the Modernisation Fund to finance investments involving the adjacent Union border regions when this is relevant to the energy transition of beneficiary Member States.

(45) Further incentives to reduce greenhouse gas emissions by using cost-efficient techniques should be provided. To that end, the free allocation of emission allowances to stationary installations from 2026 onwards should be conditional on investments in techniques to increase energy efficiency and reduce emissions, in particular for large energy users. The Commission should ensure that the application of that conditionality does not jeopardise a level playing field, environmental integrity or equal treatment of installations across the Union. The Commission should therefore, without prejudice to the rules applicable under Directive 2012/27/EU of the European Parliament and of the Council ([15]), adopt delegated acts supplementing this Directive to address any issue identified in particular on the above-mentioned principles and provide for administratively simple rules for the application of the conditionality. Those rules should be part of the general rules on free allocation, using the established procedure for national implementing measures, and provide for timelines, for criteria for the recognition of implemented energy efficiency measures, as well as for alternative measures to reduce greenhouse gas emissions. In addition, incentives to reduce greenhouse gas emissions should be further reinforced for installations with high greenhouse gas emission intensities. To that end, from 2026 onwards, the free allocation of emission allowances to the 20 % stationary installations with the highest emission intensities under a given product benchmark should also be conditional on the setting-up and implementation of climate-neutrality plans.

(46) The Carbon Border Adjustment Mechanism (CBAM), established under Regulation (EU) 2023/956 of the European Parliament and of the Council ([16]), is set to replace the mechanisms established under Directive 2003/87/EC to prevent the risk of carbon leakage. To the extent that sectors and subsectors are covered by that measure, they should not receive free allocation. However, a transitional phasing-out of free allowances is needed to allow producers, importers and traders to adjust to the new regime. The reduction of free allocation should be implemented by applying a factor to free allocation for CBAM sectors, while CBAM is phased in. The CBAM factor should be equal to 100 % for the period between the entry into force of that Regulation and the end of 2025, and subject to the application of provisions referred to in Article 36(2), point (b), of that Regulation, should be equal to 97,5 % in 2026, 95 % in 2027, 90 % in 2028, 77,5 % in 2029, 51,5 % in 2030, 39 % in 2031, 26,5 % in 2032 and 14 % in 2033. From 2034, no CBAM factor should apply.

([15]) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

([16]) Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (see page 52 of this Official Journal).

The relevant delegated acts on free allocation should be adjusted accordingly for the sectors and subsectors covered by CBAM. The free allocation no longer provided to the CBAM sectors based on this calculation (CBAM demand) is to be added to the Innovation Fund, so as to support innovation in low-carbon technologies, carbon capture and utilisation (CCU), carbon capture, transport and geological storage (CCS), renewable energy and energy storage, in a way that contributes to mitigating climate change. In this context, special attention should be given to projects in CBAM sectors. To respect the proportion of the free allocation available for non-CBAM sectors, the final amount to be deducted from the free allocation and made available under the Innovation Fund should be calculated based on the proportion that the CBAM demand represents in respect of the free allocation needs of all sectors receiving free allocation.

(47) In order to mitigate potential carbon leakage risks related to goods subject to CBAM and produced in the Union for export to third countries which do not apply the EU ETS or a similar carbon pricing mechanism, an assessment should be carried out before the end of the transitional period under Regulation (EU) 2023/956. Where that assessment concludes that there is such a carbon leakage risk, the Commission should, where appropriate, submit a legislative proposal to address that carbon leakage risk in a manner that is compliant with the rules of the World Trade Organization. Moreover, Member States should be allowed to use auction revenues to address any residual risk of carbon leakage in CBAM sectors and in accordance with State aid rules. Where allowances coming from a reduction of free allocation in application of the conditionality rules are not fully used to exempt the installations with the lowest greenhouse gas emission intensity from the cross-sectoral correction, 50 % of those residual allowances should be added to the Innovation Fund. The other 50 % should be auctioned on behalf of Member States and they should use the revenue therefrom to address any residual risk of carbon leakage in CBAM sectors.

(48) In order to better reflect technological progress while ensuring emission reduction incentives and properly rewarding innovation, the minimum adjustment of the benchmark values should be increased from 0,2 % to 0,3 % per year, and the maximum adjustment should be increased from 1,6 % to 2,5 % per year. For the period from 2026 to 2030, the benchmark values should thus be adjusted within a range of 6 % to 50 % compared to the value applicable in the period from 2013 to 2020. In order to provide predictability to installations, the Commission should adopt implementing acts determining the revised benchmark values for free allocation as soon as possible before the start of the period from 2026 to 2030.

(49) To incentivise new breakthrough technologies in the steel industry and to avoid a significantly disproportionate reduction of the benchmark value and in light of the particular situation of the steel industry such as the high emission intensity and the international and Union market structure, it is necessary to exclude from the calculation of the hot metal benchmark value for the period from 2026 to 2030 installations that were operational during the reference period from 2021 to 2022 and that would otherwise be included in that calculation due to the review of the definition of the product benchmark for hot metal.

(50) To reward best performers and innovation, installations whose greenhouse gas emission levels are below the average of the 10 % most efficient installations under a given benchmark should be excluded from the application of the cross-sectoral correction factor. Allowances that are not allocated due to a reduction of free allocation in application of the conditionality rules should be used to cover the deficit in the reduction of free allocation resulting from excluding best performers from the application of the cross-sectoral correction factor.

(51) In order to speed up the decarbonisation of the economy while strengthening the industrial competitiveness of the Union, an additional 20 million allowances from the quantity which could otherwise be allocated for free and an additional 5 million allowances from the quantity which could otherwise be auctioned should be made available to the Innovation Fund. When reviewing the timing and sequencing of the auctioning for the Innovation Fund established in Commission Regulation (EU) No 1031/2010 ([17]) in view of the changes introduced by this Directive, the Commission should consider making available larger amounts of resources in the first years of implementation of the revised Directive 2003/87/EC to boost the decarbonisation of relevant sectors.

([17]) Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a system for greenhouse gas emission allowances trading within the Union (OJ L 302, 18.11.2010, p. 1).

(52) A comprehensive approach to innovation is essential for achieving the objectives of Regulation (EU) 2021/1119. At Union level, the necessary research and innovation efforts are supported, among other things, through Horizon Europe, which includes significant funding and new instruments for the sectors coming under the EU ETS. Consequently, the Commission should seek synergies with Horizon Europe and, where relevant, with other Union funding programmes.

(53) The Innovation Fund should support innovative techniques, processes and technologies, including the scaling-up of such techniques, processes and technologies, with a view to their broad roll-out across the Union. Breakthrough innovation should be prioritised in the selection of projects supported through grants.

(54) The scope of the Innovation Fund referred to in Article 10a(8) of Directive 2003/87/EC should be extended to support innovation in low- and zero-carbon technologies and processes that concern the consumption of fuels in the buildings, road transport and additional sectors, including collective forms of transport such as public transport and coach services. In addition, the Innovation Fund should serve to support investments to decarbonise maritime transport, including investments in energy efficiency of ships, ports and short-sea shipping, in electrification of the sector, in sustainable alternative fuels, such as hydrogen and ammonia that are produced from renewables, in zero-emission propulsion technologies such as wind technologies, and in innovations with regard to ice-class ships. Special attention should be given to innovative projects contributing to decarbonising the maritime sector and reducing all of its climate impacts, including black carbon emissions. In that respect, the Commission should provide for dedicated topics in Innovation Fund calls for proposals. Those calls should take biodiversity protection, noise and water pollution issues into account. As far as maritime transport is concerned, projects with clear added value for the Union should be eligible.

(55) Pursuant to Article 9 of Commission Delegated Regulation (EU) 2019/1122 ([18]), where aircraft operators no longer operate flights covered by the EU ETS, their accounts are set to 'excluded' status, and processes may no longer be initiated from those accounts. To preserve the environmental integrity of the EU ETS, allowances which are not issued to aircraft operators, due to them ceasing operations, should be used to cover any shortfall in surrenders by those operators, and any leftover allowances should be used to accelerate action to tackle climate change by being placed in the Innovation Fund.

(56) Technical assistance from the Commission focused on Member States from which few or no projects have been submitted so far would contribute to achieving a high number of project applications for funding by the Innovation Fund across all Member States. That assistance should, among other things, support activities aimed at improving the quality of proposals for projects located in the Member States from which few or no projects have been submitted, for example through sharing information, lessons learned and best practice, and at boosting the activities of national contact points. Other measures serving the same aim include measures to raise awareness of funding options and increase the capacity of those Member States to identify and support potential project applicants. Project partnerships across Member States and matchmaking between potential applicants, in particular for large-scale projects, should also be promoted.

(57) In order to improve the role of Member States in the governance of the Innovation Fund and increase transparency, the Commission should report to the Climate Change Committee on the implementation of the Innovation Fund, providing an analysis of the expected impact of awarded projects by sector and by Member State. The Commission should also provide the report to the European Parliament and to the Council and make it public. Subject to the agreement of applicants, following the closure of a call for proposals, the Commission should inform Member States of the applications for funding of projects in their respective territories and should provide them with detailed information of those applications in order to facilitate the Member States' coordination of the support to projects. In addition, the Commission should inform the Member States about the list of pre-selected projects prior to the award of the support. Member States should ensure that the national transposition provisions do not hamper innovation and are technologically neutral, while the Commission should provide technical assistance, in particular

([18]) Commission Delegated Regulation (EU) 2019/1122 of 12 March 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry (OJ L 177, 2.7.2019, p. 3).

to Member States with low effective participation, in order to improve the effective geographical participation in the Innovation Fund and increase the overall quality of submitted projects. The Commission should also ensure comprehensive monitoring and reporting, including information on progress towards effective, quality-based geographical coverage across the Union and appropriate follow-up.

(58) In order to align with the comprehensive nature of the European Green Deal, the selection process for projects supported through grants should give priority to projects addressing multiple environmental impacts. In order to support the replication and the faster market penetration of the technologies or solutions that are supported, projects funded by the Innovation Fund should share knowledge with other relevant projects as well as with Union-based researchers having a legitimate interest.

(59) Contracts for difference (CDs), carbon contracts for difference (CCDs) and fixed premium contracts are important elements for the triggering of emission reductions in industry through the scaling-up of new technologies, offering the opportunity to guarantee investors in innovative climate-friendly technologies a price that rewards CO_2 emission reductions above those induced by the prevailing carbon price level in the EU ETS. The range of measures that the Innovation Fund can support should be extended to provide support to projects through competitive bidding, leading to the award of CDs, CCDs or fixed premium contracts. Competitive bidding would be an important mechanism for supporting the development of decarbonisation technologies and optimising the use of available resources. It would also offer certainty to investors in those technologies. With a view to minimising any contingent liability for the Union budget, risk mitigation should be ensured in the design of CDs and CCDs and appropriate coverage by a budgetary commitment should be provided with full coverage at least for the first two rounds of CDs and CCDs with appropriations resulting from the proceeds of auctioning of allowances allocated pursuant to Article 10a(8) of Directive 2003/87/EC.

No such risks exist for fixed premium contracts because the legal commitment will be covered by a matching budgetary commitment. In addition, the Commission should conduct, after concluding the first two rounds of CDs and CCDs, and each time it is necessary thereafter, a qualitative and quantitative assessment of the financial risks arising from their implementation. The Commission should be empowered to adopt a delegated act to provide, based on the results of that assessment, for an appropriate provisioning rate rather than full coverage for subsequent rounds of CDs or CCDs. Such an approach should take into account any elements that could reduce the financial risks for the Union budget, in addition to the allowances available in the Innovation Fund, such as possible sharing of liability with Member States, on a voluntary basis, or a possible re-insurance mechanism from the private sector. It is therefore necessary to provide for derogations from parts of Title X of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([19]). The provisioning rate for the first two rounds of CDs and CCDs should be 100 %.

However, by way of derogation from Article 210(1), Article 211(1) and (2) and Article 218(1) of that Regulation, a minimum provisioning rate of 50 % as well as a maximum share of revenue from the Innovation Fund to be used for provisioning of 30 % should be set in this Directive for subsequent rounds of CDs and CCDs and the Commission should be able to specify the provisioning rate necessary on the basis of the experience from the first two calls for proposals and the amount of revenue to be used for provisioning. The total financial liability borne by the Union budget should thus not exceed 60 % of the proceeds from auctioning for the Innovation Fund. Moreover, as provisioning will come, in general, from the Innovation Fund, derogations should be made from the rules in Articles 212, 213 and 214 of Regulation (EU, Euratom) 2018/1046 relating to the common provisioning fund established by Article 212 of that Regulation. The novel nature of CDs and CCDs might also necessitate derogations from Article 209(2), points (d) and (h), of that Regulation, given that they do not rely on leverage/multipliers or depend entirely on an ex ante assessment, from Article 219(3), due to the link to Article 209(2), point (d), and from Article 219(6) thereof, as implementing partners will not have credit or equity exposures under a guarantee. The use of any derogation from Regulation (EU, Euratom) 2018/1046 should be limited to what is necessary. The Commission should be empowered to amend the maximum share of revenue from the Innovation Fund to be used for provisioning by no more than 20 percentage points above what is provided for in this Directive.

([19]) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(60) The Innovation Fund is subject to the general regime of conditionality for the protection of the Union budget established by Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council ([20]).

(61) Where an installation's activity is temporarily suspended, free allocation is adjusted to the activity levels which are mandatorily reported annually. In addition, competent authorities can suspend the issuance of emission allowances to installations that have suspended operations as long as there is no evidence that they will resume operations. Therefore, operators should no longer be required to demonstrate to the competent authority that their installation will resume production within a specified and reasonable time in the event of a temporary suspension of the activities.

(62) Corrections of free allocation granted to stationary installations pursuant to Article 11(2) of Directive 2003/87/EC can require granting additional free allowances or transferring back surplus allowances. The allowances set aside for new entrants under Article 10a(7) of Directive 2003/87/EC should be used for those purposes.

(63) Since 2013, electricity producers have been obliged to purchase all the allowances they need to generate electricity. Nevertheless, in accordance with Article 10c of Directive 2003/87/EC, some Member States have the option of providing transitional free allocation for the modernisation of the energy sector for the period from 2021 to 2030. Three Member States have chosen to use that option. Given the need for rapid decarbonisation, especially in the energy sector, the Member States concerned should only be able to provide this transitional free allocation for investments carried out until 31 December 2024. They should be able to add any remaining allowances for the period from 2021 to 2030 that are not used for such investments, in the proportion they determine, to the total quantity of allowances that the Member State concerned receives for auctioning, or use them to support investments within the framework of the Modernisation Fund. With the exception of the deadline for notification thereof, allowances transferred to the Modernisation Fund should be subject to the same rules concerning investments that are applicable to the allowances already transferred pursuant to Article 10d(4) of Directive 2003/87/EC. To ensure predictability and transparency with regard to the amount of allowances available either for auctioning or for the transitional free allocation, and with regard to the assets managed by the Modernisation Fund, Member States should inform the Commission of the amounts of remaining allowances to be used for each purpose, respectively, by 15 May 2024.

(64) The scope of the Modernisation Fund should be aligned with the most recent climate objectives of the Union by requiring that investments are consistent with the objectives of the European Green Deal and Regulation (EU) 2021/1119, and eliminating the support to any investments related to energy generation based on fossil fuels, except as regards the support for such investments with revenue from allowances voluntarily transferred to the Modernisation Fund in accordance with Article 10d(4) of Directive 2003/87/EC. In addition, limited support for such investments should continue to be possible with revenue from the allocations referred to in Article 10(1), third subparagraph, of that Directive under certain conditions, in particular where the activity qualifies as environmentally sustainable under Regulation (EU) 2020/852 of the European Parliament and of the Council ([21]) and as regards the allowances auctioned until 2027. For the latter category of allowances, the downstream uses of non-solid fossil fuels should, in addition, not be supported with revenue from allowances auctioned after 2028. Furthermore, the percentage of the Modernisation Fund that needs to be devoted to priority investments should be increased to 80 % for the Modernisation Fund allowances transferred in accordance with Article 10d(4) of Directive 2003/87/EC and referred to in Article 10(1), third subparagraph, of that Directive, and to 90 % for the additional amount of 2,5 % from the Union-wide quantity of allowances.

Energy efficiency including in industry, transport, buildings, agriculture and waste; heating and cooling from renewable sources; as well as support for households to address energy poverty, including in rural and remote areas, should be included within the scope of the priority investments. In order to increase transparency and better assess the impact of the Modernisation Fund, the Investment Committee should report annually to the Climate Change Committee on experience with the evaluation of investments, in particular in terms of emission reductions and abatement costs.

([20]) Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433 I, 22.12.2020, p. 1).

([21]) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

(65) Directive (EU) 2018/410 introduced provisions relating to the cancellation by Member States of allowances from their auction volume in respect of closures of electricity-generation capacity in their territory. In view of the increased climate ambition of the Union and the resulting accelerated decarbonisation of the electricity sector, such cancellation has become increasingly relevant. Therefore, the Commission should assess whether the use by Member States of cancellation can be facilitated by amending the relevant delegated acts adopted pursuant to Article 10(4) of Directive 2003/87/EC.

(66) Adjustments to free allocation introduced in Directive (EU) 2018/410 and put into effect by Commission Implementing Regulation (EU) 2019/1842 ([22]) improved the efficiency and incentives provided by free allocation, but increased the administrative burden and rendered the historical date of issuance of free allocation of 28 February inoperative. In order to better take into account the adjustments to free allocation, it is appropriate to make adjustments to the compliance cycle. The deadline for competent authorities to grant free allocation should therefore be postponed from 28 February to 30 June and the deadline for operators to surrender allowances should be postponed from 30 April to 30 September.

(67) Commission Implementing Regulation (EU) 2018/2066 ([23]) lays down rules on the monitoring of emissions from biomass, which are consistent with the rules on the use of biomass laid down in the Union legislation on renewable energy. As the legislation becomes more elaborate on the sustainability criteria for biomass with the latest rules established in Directive (EU) 2018/2001 of the European Parliament and of the Council ([24]), the conferral of implementing powers in Article 14(1) of Directive 2003/87/EC should be explicitly extended to the adoption of the necessary adjustments for the application in the EU ETS of sustainability criteria for biomass, including biofuels, bioliquids and biomass fuels. In addition, the Commission should be empowered to adopt implementing acts to specify how to account for the storage of emissions from mixes of zero-rated biomass and biomass that is not from zero-rated sources.

(68) Renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels can be important for reducing greenhouse gas emissions in sectors that are hard to decarbonise. Where recycled carbon fuels and renewable liquid and gaseous fuels of non-biological origin are produced from captured CO_2 under an activity covered by this Directive, the emissions should be accounted for under that activity. To ensure that renewable fuels of non-biological origin and recycled carbon fuels contribute to greenhouse gas emission reductions, and to avoid double counting for fuels that do so, it is appropriate to explicitly extend the empowerment in Article 14(1) of Directive 2003/87/EC to the adoption by the Commission of implementing acts laying down the necessary adjustments for how to account for the eventual release of CO_2, in a way that ensures that all emissions are accounted for, including where such fuels are produced from captured CO_2 outside the Union, while avoiding double counting and ensuring appropriate incentives are in place for capturing emissions, taking also into account the treatment of those fuels under Directive (EU) 2018/2001.

(69) As CO_2 is also expected to be transported by means other than pipelines, such as by ship and by truck, the current coverage in Annex I to Directive 2003/87/EC for transport of greenhouse gases for the purpose of storage should be extended to all means of transport for reasons of equal treatment and irrespective of whether the means of transport are covered by the EU ETS. Where the emissions from the transport are also covered by another activity under Directive 2003/87/EC, the emissions should be accounted for under that other activity to prevent double counting.

([22]) Commission Implementing Regulation (EU) 2019/1842 of 31 October 2019 laying down rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards further arrangements for the adjustments to free allocation of emission allowances due to activity level changes (OJ L 282, 4.11.2019, p. 20).

([23]) Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

([24]) 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).

(70) The exclusion from the EU ETS of installations exclusively using biomass has led to situations where installations combusting a high share of biomass have obtained windfall profits by receiving free allowances greatly exceeding actual emissions. Therefore, a threshold value for zero-rated biomass combustion should be introduced, above which installations are excluded from the EU ETS. The introduction of a threshold would provide more certainty as to which installations are under the EU ETS scope and would enable free allowances to be more evenly distributed to sectors more at risk of carbon leakage in particular. The threshold should be set at a level of 95 % to balance the advantages and disadvantages for installations of remaining under the scope of the EU ETS. Therefore, installations that have retained the physical capacity to burn fossil fuels should not be incentivised to revert to the use of such fuels. A threshold of 95 % would ensure that if an installation uses fossil fuels with the purpose of remaining within the scope of the EU ETS to benefit from free allocation allowances, the carbon costs related to the use of those fossil fuels would be sufficiently important to act as a disincentive.

That threshold would also ensure that installations using a sizeable quantity of fossil fuels will remain within the monitoring obligations of the EU ETS, thus avoiding potential circumvention of existing monitoring, reporting and verification obligations. At the same time, installations which combust a lower share of zero-rated biomass should continue to be encouraged, through a flexible mechanism, to reduce fossil fuel combustion further while remaining under the scope of the EU ETS until their use of sustainable biomass is so substantial that their inclusion under the EU ETS is no longer justified. In addition, experience has shown that the exclusion of installations exclusively using biomass, effectively being a 100 % threshold except for the combustion of fossil fuels during start-up and shutdown phases, requires a reassessment and more precise definition. The 95 % threshold allows for the combustion of fossil fuels during start-up and shutdown phases.

(71) In order to incentivise the uptake of low- and zero-carbon technologies, Member States should provide operators with the options of remaining within the scope of the EU ETS until the end of the current and next five-year period referred to in Article 11(1) of Directive 2003/87/EC if the installation changes its production process to reduce its greenhouse gas emissions and no longer meets the threshold of 20 MW of total rated thermal input.

(72) The European Securities and Markets Authority (ESMA) published its final report on emission allowances and associated derivatives on 28 March 2022. The report is a comprehensive analysis of the integrity of the European carbon market and has provided expertise and recommendations in relation to upholding the proper functioning of the carbon market. In order to continuously monitor market integrity and transparency, the reporting by ESMA should be conducted on a regular basis. ESMA is already assessing market developments and, where necessary, provides recommendations, in the area of its competence, in its report on trends, risks and vulnerabilities in accordance with Article 32(3) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council ([25]). Analysis of the European carbon market, which includes the auctions of emission allowances, on-venue and over-the-counter trading in emission allowances and derivatives thereof, should be part of that annual reporting. This obligation would lead to streamlining of the reporting done by ESMA and allow for cross-market comparisons, in particular due to strong linkages between the EU ETS and commodity derivative markets.

Such regular analysis by ESMA should in particular monitor any market volatility and price evolution, the operation of the auctions and trading operations on the markets, liquidity and the volumes traded, and the categories and trading behaviour of market participants, including speculative activity significantly impacting on prices. Its assessments should, where relevant, include recommendations to improve market integrity and transparency as well as reporting obligations, and to enhance the prevention and detection of market abuse and help in maintaining orderly markets for emission allowances and derivatives thereof. The Commission should take due account of the assessments and recommendations in the context of the annual carbon market report and, where necessary, in the reports to ensure the better functioning of the carbon market.

([25]) Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

(73) In order to further incentivise investments required for the decarbonisation of district heating and to address social aspects related to high energy prices and the high greenhouse gas emission intensity of district heating installations, in Member States with a very high share of emissions from district heating in comparison with the size of the economy, operators should be able to apply for additional transitional free allocation for district heating installations and the additional value of the free allocation should be invested to significantly reduce emissions before 2030. To ensure those reductions take place, the additional transitional free allocation should be conditional on investments made and on emission reductions achieved as laid down in climate-neutrality plans to be drawn up by operators for their relevant installations.

(74) Unexpected or sudden excessive price increases in the carbon market can negatively affect market predictability, which is essential for the planning of decarbonisation investments. Therefore, the measure which applies in the event of excessive price fluctuations in the market for emissions allowance trading covered under Chapters II and III of Directive 2003/87/EC should be strengthened in a careful manner to improve its reactivity to unwarranted price fluctuations. If the triggering condition based on the increase in the average allowance price is met, this rule-based safeguard measure should apply automatically, thereby resulting in a release of a predetermined number of allowances from the market stability reserve established by Decision (EU) 2015/1814 of the European Parliament and of the Council ([26]). The triggering condition should be closely monitored by the Commission and published on a monthly basis in order to improve transparency. To ensure the orderly auctioning of the allowances released from the market stability reserve pursuant to this safeguard measure and to improve market predictability, this measure should not apply again until at least twelve months after the end of the previous release of allowances in the market under the measure.

(75) The communication of the Commission of 17 September 2020 entitled 'Stepping up Europe's 2030 climate ambition - Investing in a climate-neutral future for the benefit of our people' underlined the particular challenge of reducing the emissions in the buildings and road transport sectors. Therefore, the Commission announced that a further expansion of emissions trading could include emissions from buildings and road transport, while indicating that covering all emissions from fuel combustion would present important benefits. Emissions trading should be applied to fuels used for combustion in the buildings and road transport sectors as well as in additional sectors which correspond to industrial activities not covered by Annex I to Directive 2003/87/EC such as the heating of industrial facilities ('buildings, road transport and additional sectors'). For those sectors, a separate but parallel emissions trading system should be established to avoid any disturbance of the well-functioning emissions trading system for stationary installations and aviation. The new system is accompanied by complementary policies shaping expectations of market participants and aiming for a carbon price signal for the whole economy while providing measures to avoid undue price impacts. Previous experience has shown that the development of the new system requires setting up an efficient monitoring, reporting and verification system. With a view to ensuring synergies and consistency with the existing Union infrastructure for the EU ETS, it is appropriate to set up an emissions trading system for the buildings, road transport and additional sectors via an amendment to Directive 2003/87/EC.

(76) In order to establish the necessary implementation framework and to provide a reasonable timeframe for reaching the 2030 target, emissions trading in the buildings, road transport and additional sectors should start in 2025. During the first years, the regulated entities should be required to hold a greenhouse gas emissions permit and to report their emissions for the years 2024 to 2026. The issuance of allowances and compliance obligations for those entities should be applicable as from 2027. This sequencing would allow emissions trading in those sectors to start in an orderly and efficient manner. It would also allow the measures to be in place to ensure a socially fair introduction of emissions trading into the buildings, road transport and additional sectors, so as to mitigate the impact of the carbon price on vulnerable households and transport users.

(77) Due to the very large number of small emitters in the buildings, road transport and additional sectors, it is not possible to establish the point of regulation at the level of entities directly emitting greenhouse gases, as is the case for stationary installations and aviation. Therefore, for reasons of technical feasibility and administrative efficiency, it is more appropriate to establish the point of regulation further upstream in the supply chain. The act that triggers the compliance obligation under the new emissions trading system should be the release for consumption of fuels which are used for combustion in the buildings and road transport sectors, including for road transport of

([26]) Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, p. 1).

greenhouse gases for the purpose of their geological storage, as well as in the additional sectors which correspond to industrial activities not covered by Annex I to Directive 2003/87/EC. To avoid double coverage, the release for consumption of fuels which are used in activities under Annex I to that Directive should not be covered.

(78) The regulated entities in the buildings, road transport and additional sectors and the point of regulation should be defined in line with the system of excise duty established by Council Directive (EU) 2020/262 ([27]), with the necessary adaptations, as that Directive already lays down a robust control system for all quantities of fuels released for consumption for the purposes of paying excise duties. Final consumers of fuels in those sectors should not be subject to obligations under Directive 2003/87/EC.

(79) The regulated entities falling within the scope of the emissions trading system in the buildings, road transport and additional sectors should be subject to similar greenhouse gas emissions permit requirements as the operators of stationary installations. It is necessary to establish rules on permit applications, conditions for permit issuance, content, and review, and any changes related to the regulated entity. In order for the new system to start in an orderly manner, Member States should ensure that regulated entities falling within the scope of the new emissions trading system have a valid permit as of the start of the system in 2025.

(80) The total quantity of allowances for the new emissions trading system should follow a linear trajectory to reach the emission reduction target for 2030, taking into account the cost-efficient contribution of the buildings and road transport sectors of 43 % emission reductions by 2030 compared to 2005 and of the additional sectors, a combined cost-efficient contribution of 42 % emission reductions by 2030 compared to 2005. The total quantity of allowances should be established for the first time in 2027, to follow a trajectory starting in 2024 from the value of the 2024 emissions limits, calculated in accordance with Article 4(2) of Regulation (EU) 2018/842 of the European Parliament and of the Council ([28]) on the basis of the reference emissions for the sectors covered for 2005 and the period from 2016 to 2018 as determined under Article 4(3) of that Regulation. Accordingly, the linear reduction factor should be set at 5,10 %. From 2028, the total quantity of allowances should be set on the basis of the average reported emissions for the years 2024, 2025 and 2026, and should decrease by the same absolute annual reduction rate as set from 2024, which corresponds to a 5,38 % linear reduction factor compared to the comparable 2025 value of the above defined trajectory. If those emissions are significantly higher than that trajectory value and if such divergence is not due to small-scale differences in emission measurement methodologies, the linear reduction factor should be adjusted to reach the required level of emission reduction in 2030.

(81) The auctioning of allowances is the simplest and the most economically efficient method for allocating emission allowances, and also avoids windfall profits. Both the buildings and road transport sectors are under relatively little or non-existent competitive pressure from outside the Union and are not exposed to a risk of carbon leakage. Therefore, allowances for buildings and road transport should only be allocated via auctioning, without there being any free allocation.

(82) In order to ensure a smooth start to the new emissions trading system and taking into account the need of the regulated entities to hedge or buy ahead allowances to mitigate their price and liquidity risk, a higher amount of allowances should be auctioned early on. In 2027, the auction volumes should therefore be 30 % higher than the total quantity of allowances for 2027. This amount would be sufficient to provide liquidity, both if emissions decrease in line with the reductions needed, and in the event that emission reductions only materialise progressively. The detailed rules for that front-loading of auction volumes should be established in a delegated act related to auctioning, adopted pursuant to Article 10(4) of Directive 2003/87/EC.

([27]) Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

([28]) 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).

(83) The distribution rules on auction shares are highly relevant for any auction revenues that would accrue to the Member States, especially in view of the need to strengthen the ability of the Member States to address the social impacts of a carbon price signal in the buildings and road transport sectors. Notwithstanding the fact that those buildings, road transport and additional sectors have very different characteristics, it is appropriate to set a common distribution rule similar to the one applicable to stationary installations. The majority of the allowances should be distributed among all Member States on the basis of the average distribution of the emissions in road transportation, commercial and institutional buildings and residential buildings, during the period from 2016 to 2018.

(84) The introduction of the carbon price in the buildings and road transport sectors should be accompanied by effective social compensation, especially in view of the existing levels of energy poverty. About 34 million Europeans, nearly 6,9 % of the Union population, have said that they cannot afford to heat their home sufficiently in a 2021 Union-wide survey. To achieve effective social and distributional compensation, Member States should be required to spend the auction revenues from emissions trading for the buildings, road transport and additional sectors on the climate and energy-related purposes already specified for the existing emissions trading system, giving priority to activities that can contribute to addressing social aspects of the emissions trading in the buildings, road transport and additional sectors, or for measures added specifically to address related concerns for those sectors, including related policy measures under Directive 2012/27/EU.

A new Social Climate Fund established by Regulation (EU) 2023/955 of the European Parliament and of the Council ([29]) will provide dedicated funding to Member States to support the most affected vulnerable groups, especially households in energy or transport poverty. The Social Climate Fund will promote fairness and solidarity between and within Member States while mitigating the risk of energy and transport poverty during the transition. It will build on and complement existing solidarity mechanisms, in synergy with other Union spending programmes and funds. 50 million allowances from the EU ETS pursuant to Article 10a(8b) of Directive 2003/87/EC and 150 million allowances from emissions trading in the buildings, road transport and additional sectors, and revenue generated from the auctioning of allowances concerning the buildings, road transport and additional sectors, up to a maximum of EUR 65 000 000 000, should be used for the financing of the Social Climate Fund in the form of external assigned revenue on a temporary and exceptional basis, pending the discussions and deliberations on the Commission's proposal of 22 December 2021 for a Council Decision amending Decision (EU, Euratom) 2020/2053 on the system of own resources of the European Union concerning the establishment of a new own resource based on the EU ETS in accordance with Article 311, third paragraph, TFEU.

It is necessary to provide that, where a decision is adopted in accordance with Article 311, third paragraph, TFEU establishing that new own resource, the same revenue should cease to be externally assigned when such a decision enters into force. With regard to the Social Climate Fund, the Commission is, in the event of the adoption of such a decision, to present, as appropriate, the necessary proposals in accordance with Article 27(4) of Regulation (EU) 2023/955. This is without prejudice to the outcome of the post-2027 Multiannual Financial Framework negotiations.

(85) Reporting on the use of auctioning revenues should be aligned with the current reporting established by Regulation (EU) 2018/1999.

(86) Regulated entities covered by the new emissions trading system should surrender allowances for their verified emissions corresponding to the quantities of fuels they have released for consumption. They should surrender allowances for the first time for their verified emissions in 2027. In order to minimise the administrative burden, a number of rules applicable to the existing emissions trading system for stationary installations and aviation should be made applicable to the new emissions trading system for the buildings, road transport and additional sectors, with the necessary adaptations. This includes, in particular, rules on transfer, surrender and cancellation of allowances, as well as the rules on the validity of allowances, penalties, competent authorities and reporting obligations of Member States.

([29]) Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060 (see page 1 of this Official Journal).

(87) Certain Member States already have national carbon taxes that apply to the buildings, road transport and additional sectors covered by Annex III to Directive 2003/87/EC. Therefore, a temporary derogation should be introduced until the end of 2030. To ensure the objectives of Directive 2003/87/EC are achieved and that the new emissions trading system is coherent, the option of applying that derogation should only be available where the national tax rate is higher than the average auctioning price for the relevant year, and should only apply to the surrender obligation of the regulated entities paying such a tax. To ensure stability and transparency of the system, the national tax, including the relevant tax rates, should be notified to the Commission by the end of the transposition period of this Directive. The derogation should not affect the external assigned revenue for the Social Climate Fund or, if established in accordance with Article 311, third paragraph, TFEU, an own resource based on the auctioning revenues from emissions trading in the buildings, road transport and additional sectors.

(88) For emissions trading in the buildings, road transport and additional sectors to be effective, it should be possible to monitor emissions with high certainty and at reasonable cost. Emissions should be attributed to regulated entities on the basis of fuel quantities released for consumption and combined with an emission factor. Regulated entities should be able to reliably and accurately identify and differentiate the sectors in which the fuels are released for consumption, as well as the final users of the fuels, in order to avoid undesirable effects, such as a double burden. In the small number of cases where double counting between emissions in the existing EU ETS and the new emissions trading system for the buildings, road transport and additional sectors cannot be avoided, or where costs arise due to the surrender of allowances for emissions from activities not covered by Directive 2003/87/EC, Member States should use such revenue to compensate for the unavoidable double counting or other such costs outside the buildings, road transport and additional sectors in accordance with Union law. Implementing powers should therefore be conferred on the Commission to ensure uniform conditions for avoiding double counting and allowances being surrendered for emissions not covered by the emissions trading system for buildings, road transport and additional sectors, and for providing financial compensation. To further mitigate any issues of double counting, the deadlines for monitoring and surrendering in the new emissions trading system should be one month after the deadlines in the existing system for stationary installations and aviation. To have sufficient data to establish the total quantity of allowances for the period from 2028 to 2030, the regulated entities holding a permit at the start of the system in 2025 should report their associated historical emissions for 2024.

(89) Transparency as regards carbon costs and the extent to which they are passed on to consumers is of key importance for enabling swift and cost-efficient emission reductions in all sectors of the economy. This is of particular importance in an emissions trading system which is based on upstream obligations. The new emissions trading system is meant to incentivise regulated entities to reduce the carbon content of the fuels, and such entities should not make undue profits by passing on more carbon costs to consumers than they incur. While full auctioning of emissions allowances under the emissions trading system for the buildings, road transport and additional sectors already limits the occurrence of such undue profits, the Commission should monitor the extent to which regulated entities pass on carbon costs, so that windfall profits are avoided. In relation to Chapter IVa, the Commission should report annually, where possible by type of fuel, on the average level of the carbon costs which have been passed on to consumers in the Union.

(90) It is appropriate to introduce measures to address the potential risk of excessive price increases, which, if particularly high at the start of the new emissions trading system, may undermine the readiness of households and individuals to invest in reducing their greenhouse gas emissions. Those measures should complement the safeguards provided by the market stability reserve and that became operational in 2019. While the market will continue to determine the carbon price, safeguard measures will be triggered by a rules-based automatic mechanism, whereby allowances will be released from the market stability reserve only if one or more concrete triggering conditions based on the increase in the average allowance price are met. This additional mechanism should also be highly reactive, in order to address excessive volatility due to factors other than changed market fundamentals. The measures should be adapted to different levels of excessive price increase, which will result in different degrees of intervention. The triggering conditions should be closely monitored by the Commission and the measures should be adopted by the Commission as a matter of urgency when those conditions are met. This should be without prejudice to any accompanying measures that Member States might adopt to address adverse social impacts.

(91) In order to increase certainty for citizens that the carbon price in the initial years of the new emissions trading system does not go above EUR 45, it is appropriate to include an additional price stability mechanism to release allowances from the market stability reserve in the event the carbon price exceeds that level. In principle, the measure should apply once during a period of 12 months. However, it should also be able to apply again during the same period of 12 months where the Commission, assisted by the Climate Change Committee, considers that the evolution of the price justifies another release of allowances. In view of the aim of this mechanism to ensure stability in the initial years of the new emissions trading system, the Commission should assess its functioning and whether it should be continued after 2029.

(92) As an additional safeguard mechanism ahead of the start of emissions trading in the buildings, road transport and additional sectors, it should be possible to delay the application of the cap and the surrendering obligations where gas or oil wholesale prices are exceptionally high compared to historical trends. The mechanism should be automatic, meaning that the application of the cap and the surrendering obligations is to be delayed by one year if concrete energy price triggers are met. The reference prices should be determined on the basis of benchmark contracts in the gas and oil wholesale markets which are immediately available and the most relevant for final consumers. Separate trigger conditions for gas and oil prices should be envisaged, as their price developments follow different historical trends. In order to ensure market certainty, the Commission should provide clarity on the application of the delay sufficiently in advance, through a notice in the *Official Journal of the European Union*.

(93) The application of emissions trading in the buildings, road transport and additional sectors should be monitored by the Commission, including the degree of price convergence with the existing EU ETS, and, if necessary, a review should be proposed to the European Parliament and to the Council to improve the effectiveness, administration and practical application of emissions trading for those sectors on the basis of acquired knowledge as well as increased price convergence. The Commission should be required to submit the first report on those matters by 1 January 2028.

(94) In order to ensure uniform conditions for the implementation of Article 3ga(2), Article 3gf(2) and (4), Article 10b(4), Article 12(3-d) and (3-c), Article 14(1), Article 30f(3) and (5) and Article 30h(7) of Directive 2003/87/EC, implementing powers should be conferred on the Commission. To ensure synergies with the existing regulatory framework, the conferral of implementing powers in Articles 14 and 15 of that Directive should be extended to cover the buildings, road transport and additional sectors. Those implementing powers, except the implementing powers in relation to Article 3gf(2) and Article 12(3-d) and (3-c) of Directive 2003/87/EC, should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([30]).

(95) In order to achieve the objectives laid down in this Directive and other Union legislation, particularly those in Regulation (EU) 2021/1119, the Union and its Member States should make use of the latest scientific evidence while implementing policies. Therefore, when the European Scientific Advisory Board on Climate Change provides scientific advice and issues reports regarding the EU ETS, the Commission should take such advice and reports into account, in particular, as regards the need for additional Union policies and measures to ensure compliance with the objectives and targets of Regulation (EU) 2021/1119, and additional Union policies and measures in view of the ambition and environmental integrity of global market-based measures for aviation and maritime transport.

(96) To acknowledge the contribution of EU ETS revenues to the climate transition, an EU ETS label should be introduced. Among other measures to ensure the visibility of funding from the EU ETS, Member States and the Commission should ensure that projects and activities supported through the Modernisation Fund and the Innovation Fund are clearly indicated as coming from EU ETS revenues by displaying an appropriate label.

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

(97) With a view to achieving the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119, a Union-wide climate target for 2040 should be set, based on a legislative proposal to amend that Regulation. The EU ETS should be reviewed to align it with the Union 2040 climate target. As a result, by July 2026 the Commission should report on several aspects of the EU ETS to the European Parliament and to the Council, accompanying the report, where appropriate, by a legislative proposal and impact assessment. In line with Regulation (EU) 2021/1119, priority should be given to direct emission reductions, which will have to be complemented by increased carbon removals in order to achieve climate neutrality. Therefore, among other aspects, by July 2026 the Commission should report to the European Parliament and to the Council on how emissions removed from the atmosphere and safely and permanently stored, for example through direct air capture, could potentially be covered by emissions trading, without offsetting necessary emission reductions. Until all stages of the life of a product in which captured carbon is used are subject to carbon pricing, in particular at the stage of waste incineration, reliance on accounting for emissions at the point of their release from products into the atmosphere would result in emissions being undercounted.

In order to regulate the capture of carbon in a way that reduces net emissions and ensures that all emissions are accounted for and that double counting is avoided, while generating economic incentives, the Commission should assess, by July 2026, whether all greenhouse gas emissions covered by Directive 2003/87/EC are effectively accounted for, and whether double counting is effectively avoided. In particular, it should assess the accounting for the greenhouse gas emissions which are considered to have been captured and utilised in a product in a way other than that referred to in Article 12(3b), and take into account the downstream stages, including disposal and waste incineration. Finally, the Commission should also report to the European Parliament and to the Council on the feasibility of lowering the 20 MW total rated thermal input thresholds for the activities in Annex I to Directive 2003/87/EC, taking into account the environmental benefits and administrative burden.

(98) By July 2026, the Commission should also assess and report to the European Parliament and to the Council on the feasibility of including municipal waste incineration installations in the EU ETS, including with a view to their inclusion from 2028, and provide an assessment of the potential need for an option for a Member State to opt out until the end of 2030, taking into account the importance of all sectors contributing to emission reductions. Inclusion of municipal waste incineration installations in the EU ETS would contribute to the circular economy by encouraging recycling, reuse and repair of products, while also contributing to economy-wide decarbonisation. The inclusion of municipal waste incineration installations would reinforce incentives for sustainable management of waste in line with the waste hierarchy and would create a level playing field between the regions that have included municipal waste incineration under the scope of the EU ETS.

To avoid diversion of waste from municipal waste incineration installations towards landfills in the Union, which create methane emissions, and to avoid exports of waste to third countries, with a potentially negative impact on the environment, in its report the Commission should take into account the potential diversion of waste towards disposal by landfilling in the Union and waste exports to third countries. The Commission should also take into account the effects on the internal market, potential distortions of competition, environmental integrity, alignment with the objectives of Directive 2008/98/EC of the European Parliament and of the Council ([31]) and robustness and accuracy with respect to the monitoring and calculation of emissions. Considering the methane emissions from landfilling and to avoid creating an uneven playing field, the Commission should also assess the possibility of including other waste management processes, such as landfilling, fermentation, composting and mechanical-biological treatment, in the EU ETS, when assessing the feasibility of including municipal waste incineration installations.

(99) In order to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the timing, administration and other aspects of auctioning, the rules on the application of conditionality, the rules on the operation of the Innovation Fund, the rules on the operation of the competitive bidding mechanism in relation to CDs and CCDs, the requirements for considering that greenhouse gases have become permanently chemically bound in a product and the extension of the activity referred to in Annex III to Directive 2003/87/EC to other sectors. Moreover, to ensure synergies with the existing regulatory framework, the delegation in Article 10(4) of Directive 2003/87/EC concerning the timing, administration and other aspects of

([31]) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

auctioning should be extended to cover the buildings, road transport and additional sectors. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ([32]). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(100) The provisions relating to the existing EU ETS and its extension to maritime transport should apply from 2024 in line with the need for urgent climate action and for all sectors to contribute to emission reductions in a cost-effective manner. Consequently, Member States should transpose the provisions relating to those sectors by 31 December 2023. However, the deadline for transposing the provisions relating to the emissions trading system for the buildings, road transport and additional sectors should be 30 June 2024, as the rules on monitoring, reporting, verification and permitting for those sectors apply from 1 January 2025, and require sufficient time for orderly implementation. As an exception, to guarantee transparency and robust reporting, Member States should transpose the obligation to report on historical emissions for those sectors by 31 December 2023, as that obligation relates to the emissions in the year 2024. In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ([33]), Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(101) A well-functioning, reformed EU ETS comprising an instrument to stabilise the market is a key means for the Union to achieve the economy-wide net greenhouse gas emission reduction target for 2030, the Union's climate-neutrality objective by 2050 at the latest, and the aim of achieving negative emissions thereafter as laid down in Regulation (EU) 2021/1119, as well as the objectives of the Paris Agreement. The market stability reserve seeks to address the imbalance between supply and demand of allowances in the market. Article 3 of Decision (EU) 2015/1814 provides that the reserve is to be reviewed three years after it becomes operational, paying particular attention to the percentage figure for the determination of the number of allowances to be placed in the market stability reserve, the threshold for the total number of allowances in circulation (TNAC) that determines the intake of allowances, and the number of allowances to be released from the reserve. The current threshold determining the placing of allowances in the market stability reserve was established in 2018, with the last review of the EU ETS, while the linear reduction factor is being increased with this Directive. Therefore, as part of the regular review of the functioning of the market stability reserve, the Commission should also assess the need for a potential adjustment of that threshold, in line with the linear factor referred to in Article 9 of Directive 2003/87/EC.

(102) Considering the need to deliver a stronger investment signal to reduce emissions in a cost-efficient manner and with a view to strengthening the EU ETS, Decision (EU) 2015/1814 should be amended so as to increase the percentage rate for determining the number of allowances to be placed each year in the market stability reserve. In addition, for lower levels of the TNAC, the intake should be equal to the difference between the TNAC and the threshold that determines the intake of allowances. This would prevent the considerable uncertainty in the auction volumes that results when the TNAC is close to the threshold, and at the same time ensure that the surplus reaches the volume bandwidth within which the carbon market is deemed to operate in a balanced manner.

(103) Furthermore, in order to ensure that the level of allowances that remains in the market stability reserve after the invalidation is predictable, the invalidation of allowances in the reserve should no longer depend on the auction volumes of the previous year. The number of allowances in the reserve should, therefore, be fixed at a level of 400 million allowances, which corresponds to the lower threshold for the value of the TNAC.

([32]) OJ L 123, 12.5.2016, p. 1.
([33]) OJ C 369, 17.12.2011, p. 14.

(104) The analysis of the impact assessment accompanying the proposal for this Directive has also shown that net demand from aviation should be included in the TNAC. In addition, since aviation allowances can be used in the same way as general allowances, including aviation in the reserve would make it a more accurate, and thus a better, tool to ensure the stability of the market. The calculation of the TNAC should include aviation emissions and allowances issued in respect of aviation as of the year following the entry into force of this Directive.

(105) To clarify the calculation of the TNAC, Decision (EU) 2015/1814 should specify that only allowances issued and not put in the market stability reserve are included in the supply of allowances. Moreover, the formula should no longer subtract the number of allowances in the market stability reserve from the supply of allowances. This change would have no material impact on the result of the calculation of the TNAC, including on the past calculations of the TNAC or on the reserve.

(106) In order to mitigate the risk of supply and demand imbalances associated with the start of emissions trading for the buildings, road transport and additional sectors, as well as to render it more resistant to market shocks, the rule-based mechanism of the market stability reserve should be applied to those sectors. For that reserve to be operational from the start of the system, it should be established with an initial endowment of 600 million allowances for emissions trading in the buildings, road transport and additional sectors. The initial lower and upper thresholds, which trigger the release or intake of allowances from the reserve, should be subject to a general review clause. Other elements such as the publication of the TNAC or the quantity of allowances released or placed in the reserve should follow the rules of the reserve for other sectors.

(107) Since the objectives of this Directive, namely to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient way in a manner commensurate with the economy-wide net greenhouse gas emission reduction target for 2030 through an extended and amended Union wide market-based mechanism, 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 Directive does not go beyond what is necessary in order to achieve those objectives.

(108) Directive 2003/87/EC and Decision (EU) 2015/1814 should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2003/87/EC

Directive 2003/87/EC is amended as follows:

(1) in Article 1, the second paragraph is replaced by the following:

'This Directive also provides for the reductions of greenhouse gas emissions to be increased so as to contribute to the levels of reductions that are considered scientifically necessary to avoid dangerous climate change. It contributes to the achievement of the Union's climate-neutrality objective and its climate targets as laid down in Regulation (EU) 2021/1119 of the European Parliament and of the Council (*) and thereby to the objectives of the Paris Agreement (**).

(*) 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).

(**) OJ L 282, 19.10.2016, p. 4.';

(2) in Article 2, paragraphs 1 and 2 are replaced by the following:

'1. This Directive shall apply to the activities listed in Annexes I and III, and to the greenhouse gases listed in Annex II. Where an installation that is included within the scope of the EU ETS due to the operation of combustion units with a total rated thermal input exceeding 20 MW changes its production processes to reduce its greenhouse gas emissions and no longer meets that threshold, the Member State in which that installation is situated shall provide the operator with the options of remaining within the scope of the EU ETS until the end of the current and next five-year period referred to in Article 11(1), second subparagraph, following the change to its production processes. The operator of that installation may decide that the installation is to remain within the scope of the EU ETS until the end of the current five-year period only or also of the next five-year period, following the change to its production processes. The Member State concerned shall notify the Commission of changes compared to the list submitted to the Commission pursuant to Article 11(1).

2. This Directive shall apply without prejudice to any requirements pursuant to Directive 2010/75/EU of the European Parliament and of the Council (*).

(*) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).';

(3) Article 3 is amended as follows:

(a) point (b) is replaced by the following:

'(b) "emissions" means the release of greenhouse gases from sources in an installation or the release from an aircraft performing an aviation activity listed in Annex I or from ships performing a maritime transport activity listed in Annex I of the gases specified in respect of that activity, or the release of greenhouse gases corresponding to the activity referred to in Annex III;';

(b) point (d) is replaced by the following:

'(d) "greenhouse gas emissions permit" means the permit issued in accordance with Articles 5, 6 and 30b;';

(c) point (u) is deleted;

(d) the following points are added:

'(w) "shipping company" means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the shipowner and that, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Management Code for the Safe Operation of Ships and for Pollution Prevention, set out in Annex I to Regulation (EC) No 336/2006 of the European Parliament and of the Council (*);

(x) "voyage" means a voyage as defined in Article 3, point (c), of Regulation (EU) 2015/757 of the European Parliament and of the Council (**);

(y) "administering authority in respect of a shipping company" means the authority responsible for administering the EU ETS in respect of a shipping company in accordance with Article 3gf;

(z) "port of call" means the port where a ship stops to load or unload cargo or to embark or disembark passengers, or the port where an offshore ship stops to relieve the crew; stops for the sole purposes of refuelling, obtaining supplies, relieving the crew of a ship other than an offshore ship, going into dry-dock or making repairs to the ship, its equipment, or both, stops in port because the ship is in need of assistance or in distress, ship-to-ship transfers carried out outside ports, stops for the sole purpose of taking shelter from adverse weather or rendered necessary by search and rescue activities, and stops of containerships in a neighbouring container transhipment port listed in the implementing act adopted pursuant to Article 3ga(2) are excluded;

(aa) "cruise passenger ship" means a passenger ship that has no cargo deck and is designed exclusively for commercial transportation of passengers in overnight accommodation on a sea voyage;

(ab) "contract for difference" or "CD" means a contract between the Commission and the producer, selected through a competitive bidding mechanism such as an auction, of a low- or zero-carbon product, and under which the producer is provided with support from the Innovation Fund covering the difference between the winning price, also known as the strike price, on the one hand, and a reference price derived from the price of the low- or zero-carbon product produced, the market price of a close substitute, or a combination of those two prices, on the other hand;

(ac) "carbon contract for difference" or "CCD" means a contract between the Commission and the producer, selected through a competitive bidding mechanism such as an auction, of a low- or zero-carbon product, and under which the producer is provided with support from the Innovation Fund covering the difference between the winning price, also known as the strike price, on the one hand, and a reference price derived from the average price of allowances, on the other hand;

(ad) "fixed premium contract" means a contract between the Commission and the producer, selected through a competitive bidding mechanism such as an auction, of a low- or zero-carbon product, and under which the producer is provided with support in the form of a fixed amount per unit of the product produced;

(ae) "regulated entity" for the purposes of Chapter IVa means any natural or legal person, except for any final consumer of the fuels, that engages in the activity referred to in Annex III and that falls within one of the following categories:

(i) where the fuel passes through a tax warehouse as defined in Article 3, point (11), of Council Directive (EU) 2020/262 (***), the authorised warehousekeeper as defined in Article 3, point (1), of that Directive, liable to pay the excise duty which has become chargeable pursuant to Article 7 of that Directive;

(ii) if point (i) of this point is not applicable, any other person liable to pay the excise duty which has become chargeable pursuant to Article 7 of Directive (EU) 2020/262 or Article 21(5), first subparagraph, of Council Directive 2003/96/EC (****) in respect of the fuels covered by Chapter IVa of this Directive;

(iii) if points (i) and (ii) of this point are not applicable, any other person that has to be registered by the relevant competent authorities of the Member State for the purpose of being liable to pay the excise duty, including any person exempt from paying the excise duty, as referred to in Article 21(5), fourth subparagraph, of Directive 2003/96/EC;

(iv) if points (i), (ii) and (iii) are not applicable, or if several persons are jointly and severally liable for payment of the same excise duty, any other person designated by a Member State;

(af) "fuel" for the purposes of Chapter IVa of this Directive means any energy product referred to in Article 2(1) of Directive 2003/96/EC, including the fuels listed in Table A and Table C of Annex I to that Directive, as well as any other product intended for use, offered for sale or used as motor fuel or heating fuel as specified in Article 2(3) of that Directive, including for the production of electricity;

(ag) "release for consumption" for the purposes of Chapter IVa of this Directive means release for consumption as defined in Article 6(3) of Directive (EU) 2020/262;

(ah) "TTF gas price" for the purposes of Chapter IVa means the price of the gas futures month-ahead contract traded at the Title Transfer Facility (TTF) Virtual Trading Point, operated by Gasunie Transport Services B.V.;

(ai) "Brent crude oil price" for the purposes of Chapter IVa means the futures month-ahead price for crude oil, used as a benchmark price for the purchase of oil.

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(*) Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (OJ L 64, 4.3.2006, p. 1).

(**) Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).

(***) Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

(****) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).';

(4) the title of Chapter II is replaced by the following:

'Aviation and Maritime Transport';

(5) Article 3a is replaced by the following:

'*Article 3a*

Scope

Articles 3b to 3g shall apply to the allocation and issue of allowances in respect of the aviation activities listed in Annex I. Articles 3ga to 3gg shall apply in respect of the maritime transport activities listed in Annex I.';

(6) Article 3g is replaced by the following:

'*Article 3g*

Monitoring and reporting plans

The administering Member State shall ensure that each aircraft operator submits to the competent authority in that Member State a monitoring plan setting out measures to monitor and report emissions and that such plans are approved by the competent authority in accordance with the implementing acts referred to in Article 14.';

(7) the following Articles are inserted:

'*Article 3ga*

Scope of application to maritime transport activities

1. The allocation of allowances and the application of surrender requirements in respect of maritime transport activities shall apply in respect of fifty percent (50 %) of the emissions from ships performing voyages departing from a port of call under the jurisdiction of a Member State and arriving at a port of call outside the jurisdiction of a Member State, fifty percent (50 %) of the emissions from ships performing voyages departing from a port of call outside the jurisdiction of a Member State and arriving at a port of call under the jurisdiction of a Member State, one hundred percent (100 %) of emissions from ships performing voyages departing from a port of call under the jurisdiction of a Member State and arriving at a port of call under the jurisdiction of a Member State, and one hundred percent (100 %) of emissions from ships within a port of call under the jurisdiction of a Member State.

2. The Commission shall, by 31 December 2023, by means of implementing acts establish a list of neighbouring container transhipment ports and update that list by 31 December every two years thereafter.

Those implementing acts shall list a port as a neighbouring container transhipment port where the share of transhipment of containers, measured in twenty-foot equivalent units, exceeds 65 % of the total container traffic of that port during the most recent twelve-month period for which relevant data are available and where that port is located outside the Union but less than 300 nautical miles from a port under the jurisdiction of a Member State. For the purposes of this paragraph, containers shall be considered to be transhipped when they are unloaded from a ship

to the port for the sole purpose of being loaded onto another ship. The list established by the Commission pursuant to the first subparagraph shall not include ports located in a third country for which that third country effectively applies measures equivalent to this Directive.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

3. Articles 9, 9a and 10 shall apply to maritime transport activities in the same manner as they apply to other activities covered by the EU ETS with the following exception with regard to the application of Article 10.

Until 31 December 2030, a share of allowances shall be attributed to Member States with a ratio of shipping companies that would have been under their responsibility pursuant to Article 3gf compared to their respective population in 2020 and based on data available for the period from 2018 to 2020, above 15 shipping companies per million inhabitants. The quantity of allowances shall correspond to 3,5 % of the additional quantity of allowances due to the increase in the cap for maritime transport referred to in Article 9, third paragraph, in the relevant year. For the years 2024 and 2025, the quantity of allowances shall in addition be multiplied by the percentages applicable to the relevant year pursuant to Article 3gb, first paragraph, points (a) and (b). The revenue generated from the auctioning of that share of allowances should be used for the purposes referred to in Article 10(3), first subparagraph, point (g), with regard to the maritime sector, and points (f) and (i). 50 % of the quantity of allowances shall be distributed among the relevant Member States based on the share of shipping companies under their responsibility and the remainder distributed in equal shares between them.

Article 3gb

Phase-in of requirements for maritime transport

Shipping companies shall be liable to surrender allowances according to the following schedule:

(a) 40 % of verified emissions reported for 2024 that would be subject to surrender requirements in accordance with Article 12;

(b) 70 % of verified emissions reported for 2025 that would be subject to surrender requirements in accordance with Article 12;

(c) 100 % of verified emissions reported for 2026 and each year thereafter in accordance with Article 12.

Where fewer allowances are surrendered compared to the verified emissions from maritime transport for the years 2024 and 2025, once the difference between verified emissions and allowances surrendered has been established in respect of each year, an amount of allowances corresponding to that difference shall be cancelled rather than auctioned pursuant to Article 10.

Article 3gc

Provisions for transfer of the costs of the EU ETS from the shipping company to another entity

Member States shall take the necessary measures to ensure that when the ultimate responsibility for the purchase of the fuel, or the operation of the ship, or both, is assumed by an entity other than the shipping company pursuant to a contractual arrangement, the shipping company is entitled to reimbursement from that entity for the costs arising from the surrender of allowances.

'Operation of the ship' for the purposes of this Article means determining the cargo carried or the route and the speed of the ship. The shipping company shall remain the entity responsible for surrendering allowances as required under Articles 3gb and 12 and for overall compliance with the provisions of national law transposing this Directive. Member States shall ensure that shipping companies under their responsibility comply with the obligations to surrender allowances under Articles 3gb and 12, notwithstanding the entitlement of such shipping companies to be reimbursed by the commercial operators for the costs arising from the surrender.

Article 3gd

Monitoring and reporting of emissions from maritime transport

In respect of emissions from maritime transport activities listed in Annex I to this Directive, the administering authority in respect of a shipping company shall ensure that a shipping company under its responsibility monitors and reports the relevant parameters during a reporting period, and submits to it aggregated emissions data at company level in accordance with Chapter II of Regulation (EU) 2015/757.

Article 3ge

Verification and accreditation rules for emissions from maritime transport

The administering authority in respect of a shipping company shall ensure that the reporting of aggregated emissions data at shipping company level submitted by a shipping company pursuant to Article 3gd of this Directive is verified in accordance with the verification and accreditation rules set out in Chapter III of Regulation (EU) 2015/757.

Article 3gf

Administering authority in respect of a shipping company

1. The administering authority in respect of a shipping company shall be:

(a) in the case of a shipping company registered in a Member State, the Member State in which the shipping company is registered;

(b) in the case of a shipping company that is not registered in a Member State, the Member State with the greatest estimated number of port calls from voyages performed by that shipping company in the preceding four monitoring years and falling within the scope set out in Article 3ga;

(c) in the case of a shipping company that is not registered in a Member State and that did not carry out any voyage falling within the scope set out in Article 3ga in the preceding four monitoring years, the Member State where a ship of the shipping company has started or ended its first voyage falling within the scope set out in that Article.

2. Based on the best available information, the Commission shall establish by means of implementing acts:

(a) before 1 February 2024, a list of shipping companies which performed a maritime transport activity listed in Annex I that fell within the scope set out in Article 3ga on or with effect from 1 January 2024, specifying the administering authority in respect of a shipping company in accordance with paragraph 1 of this Article;

(b) before 1 February 2026 and every two years thereafter, an updated list to reattribute shipping companies registered in a Member State to another administering authority in respect of a shipping company if they changed the Member State of registration within the Union in accordance with paragraph 1, point (a), of this Article or to include shipping companies which have subsequently performed a maritime transport activity listed in Annex I that fell within the scope set out in Article 3ga, in accordance with paragraph 1, point (c), of this Article; and

(c) before 1 February 2028 and every four years thereafter, an updated list to reattribute shipping companies that are not registered in a Member State to another administering authority in respect of a shipping company in accordance with paragraph 1, point (b), of this Article.

3. An administering authority in respect of a shipping company that, according to the list established pursuant to paragraph 2, is responsible for a shipping company shall retain that responsibility regardless of subsequent changes in the shipping company's activities or registration until those changes are reflected in an updated list.

4. The Commission shall adopt implementing acts to establish detailed rules relating to the administration of shipping companies by administering authorities in respect of a shipping company under this Directive. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

Article 3gg

Reporting and review

1. In the event of the adoption by the International Maritime Organization (IMO) of a global market-based measure to reduce greenhouse gas emissions from maritime transport, the Commission shall review this Directive in light of that adopted measure.

To that end, the Commission shall submit a report to the European Parliament and to the Council within 18 months of the adoption of such a global market-based measure and before it becomes operational. In that report, the Commission shall examine the global market-based measure as regards:

(a) its ambition in light of the objectives of the Paris Agreement;

(b) its overall environmental integrity, including in comparison with the provisions of this Directive covering maritime transport; and

(c) any issue related to the coherence between the EU ETS and that measure.

Where appropriate, the Commission may accompany the report referred to in the second subparagraph of this paragraph with a legislative proposal to amend this Directive in a manner that is consistent with the Union 2030 climate target and the climate-neutrality objective set out in Regulation (EU) 2021/1119, and with the aim of preserving the environmental integrity and effectiveness of Union climate action, in order to ensure coherence between the implementation of the global market-based measure and the EU ETS, while avoiding any significant double burden.

2. In the event that the IMO does not adopt by 2028 a global market-based measure to reduce greenhouse gas emissions from maritime transport in line with the objectives of the Paris Agreement and at least to a level comparable to that resulting from the Union measures taken under this Directive, the Commission shall submit a report to the European Parliament and to the Council in which it shall examine the need to apply the allocation of allowances and surrender requirements in respect of more than fifty percent (50 %) of the emissions from ships performing voyages between a port of call under the jurisdiction of a Member State and a port of call outside the jurisdiction of a Member State, in light of the objectives of the Paris Agreement. In that report, the Commission shall, in particular, consider progress at IMO level and examine whether any third country has a market-based measure equivalent to this Directive and assess the risk of an increase in evasive practices, including through a shift to other modes of transport or a shift of port hubs to ports outside the Union.

Where appropriate, the report referred to in the first subparagraph shall be accompanied by a legislative proposal to amend this Directive.

3. The Commission shall monitor the implementation of this Chapter in relation to maritime transport, in particular to detect evasive behaviour in order to prevent such behaviour at an early stage, including giving consideration to outermost regions, and report biennially from 2024 on the implementation of this Chapter in relation to maritime transport and possible trends regarding shipping companies seeking to evade the requirements of this Directive. The Commission shall also monitor impacts regarding, inter alia, possible transport cost increases, market distortions and changes in port traffic, such as port evasion and shifts of transhipment hubs, the overall competitiveness of the maritime sector in the Member States, and in particular impacts on those shipping services that constitute essential services of territorial continuity. If appropriate, the Commission shall propose measures to ensure the effective implementation of this Chapter in relation to maritime transport, in particular measures to address trends regarding shipping companies seeking to evade the requirements of this Directive.

4. No later than 30 September 2028, the Commission shall assess the appropriateness of extending the application of Article 3ga(3), second subparagraph, beyond 31 December 2030 and, if appropriate, submit a legislative proposal to that effect.

5. No later than 31 December 2026, the Commission shall present a report to the European Parliament and to the Council in which it shall examine the feasibility and economic, environmental and social impacts of the inclusion in this Directive of emissions from ships, including offshore ships, below 5 000 gross tonnage but not below 400 gross tonnage, building, in particular, on the analysis accompanying the review of Regulation (EU) 2015/757 due by 31 December 2024.

That report shall also consider the interlinkages between this Directive and Regulation (EU) 2015/757 and draw on the experience gained from the application thereof. In that report, the Commission shall also examine how this Directive can best account for the uptake of renewable and low-carbon maritime fuels on a lifecycle basis. If appropriate, the report may be accompanied by legislative proposals.';

(8) Article 3h is replaced by the following:

'*Article 3h*

Scope

The provisions of this Chapter shall apply to greenhouse gas emissions permits and the allocation and issue of allowances in respect of activities listed in Annex I other than aviation activities and maritime transport activities.';

(9) in Article 6(2), point (e) is replaced by the following:

'(e) an obligation to surrender allowances equal to the total emissions of the installation in each calendar year, as verified in accordance with Article 15, by the deadline laid down in Article 12(3).';

(10) Article 8 is replaced by the following:

'*Article 8*

Coordination with Directive 2010/75/EU

Member States shall take the necessary measures to ensure that, where installations carry out activities that are included in Annex I to Directive 2010/75/EU, the conditions and procedure for the issue of a greenhouse gas emissions permit are coordinated with those for the issue of a permit provided for in that Directive. The requirements laid down in Articles 5, 6 and 7 of this Directive may be integrated into the procedures provided for in Directive 2010/75/EU.

The Commission shall review the effectiveness of synergies with Directive 2010/75/EU. Environmental and climate-relevant permits shall be coordinated to ensure efficient and speedier execution of measures needed to comply with Union climate and energy objectives. The Commission may submit a report to the European Parliament and to the Council in the context of any future review of this Directive.';

(11) in Article 9, the following paragraphs are added:

'In 2024, the Union-wide quantity of allowances shall be decreased by 90 million allowances. In 2026, the Union-wide quantity of allowances shall be decreased by 27 million allowances. In 2024, the Union-wide quantity of allowances shall be increased by 78,4 million allowances for maritime transport. The linear factor shall be 4,3 % from 2024 to 2027 and 4,4 % from 2028. The linear factor shall also apply to the allowances corresponding to the average emissions from maritime transport reported in accordance with Regulation (EU) 2015/757 for 2018 and 2019 that are addressed in Article 3ga of this Directive. The Commission shall publish the Union-wide quantity of allowances by 6 September 2023.

From 1 January 2026 and 1 January 2027 respectively, the quantity of allowances shall be increased to take into account the coverage of greenhouse gas emissions other than CO_2 emissions from maritime transport activities and the coverage of emissions of offshore ships, based on their emissions for the most recent year for which data are available. Notwithstanding Article 10(1), the allowances resulting from that increase shall be made available to support innovation in accordance with Article 10a(8).';

(12) Article 10 is amended as follows:

(a) in paragraph 1, the third subparagraph is replaced by the following:

'2 % of the total quantity of allowances between 2021 and 2030 shall be auctioned to establish a fund to improve energy efficiency and modernise the energy systems of certain Member States (the 'beneficiary Member States') as set out in Article 10d (the 'Modernisation Fund'). The beneficiary Member States for that amount of allowances shall be the Member States with a GDP per capita at market prices below 60 % of the Union average in 2013. The funds corresponding to that amount of allowances shall be distributed in accordance with Part A of Annex IIb.

In addition, 2,5 % of the total quantity of allowances between 2024 and 2030 shall be auctioned for the Modernisation Fund. The beneficiary Member States for that amount of allowances shall be the Member States with a GDP per capita at market prices below 75 % of the Union average during the period from 2016 to 2018. The funds corresponding to that amount of allowances shall be distributed in accordance with Part B of Annex IIb.';

(b) in paragraph 3, first subparagraph, the introductory part is replaced by the following:

'3. Member States shall determine the use of revenues generated from the auctioning of allowances referred to in paragraph 2 of this Article, except for the revenues established as own resources in accordance with Article 311, third paragraph, TFEU and entered in the Union budget. Member States shall use those revenues, with the exception of the revenues used for the compensation of indirect carbon costs referred to in Article 10a(6) of this Directive, or the equivalent in financial value of those revenues, for one or more of the following:';

(c) in paragraph 3, first subparagraph, points (b) to (f) are replaced by the following:

'(b) to develop renewable energies and grids for electricity transmission to meet the commitment of the Union to renewable energies and the Union targets on interconnectivity, as well as to develop other technologies that contribute to the transition to a safe and sustainable low-carbon economy, and to help to meet the commitment of the Union to increase energy efficiency, at the levels agreed in relevant legislative acts, including the production of electricity from renewables self-consumers and renewable energy communities;

(c) measures to avoid deforestation and support the protection and restoration of peatland, forests and other land-based ecosystems or marine-based ecosystems, including measures that contribute to the protection, restoration and better management thereof, in particular as regards marine-protected areas, and increase biodiversity-friendly afforestation and reforestation, including in developing countries that have ratified the Paris Agreement, and measures to transfer technologies and to facilitate adaptation to the adverse effects of climate change in those countries;

(d) forestry and soil sequestration in the Union;

(e) the environmentally safe capture and geological storage of CO_2, in particular from solid fossil fuel power stations and a range of industrial sectors and subsectors, including in third countries, and innovative technological carbon removal methods, such as direct air capture and storage;

(f) to invest in and accelerate the shift to forms of transport which contribute significantly to the decarbonisation of the sector, including the development of climate-friendly passenger and freight rail transport and bus services and technologies, measures to decarbonise the maritime sector, including the improvement of the energy efficiency of ships, ports, innovative technologies and infrastructure, and sustainable alternative fuels, such as hydrogen and ammonia that are produced from renewables, and zero-emission propulsion technologies, and to finance measures to support the decarbonisation of airports in accordance with a Regulation of the European Parliament and of the Council on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU of the European Parliament and of the Council, and a Regulation of the European Parliament and of the Council on ensuring a level playing field for sustainable air transport;';

(d) in paragraph 3, first subparagraph, point (h) is replaced by the following:

'(h) measures intended to improve energy efficiency, district heating systems and insulation, to support efficient and renewable heating and cooling systems, or to support the deep and staged deep renovation of buildings in accordance with Directive 2010/31/EU of the European Parliament and of the Council (*), starting with the renovation of the worst-performing buildings;

(*) Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).';

(e) in paragraph 3, first subparagraph, the following points are inserted:

'(ha) to provide financial support to address social aspects in lower- and middle-income households, including by reducing distortive taxes, and targeted reductions of duties and charges for renewable electricity;

(hb) to finance national climate dividend schemes with a proven positive environmental impact as documented in the annual report referred to in Article 19(2) of Regulation (EU) 2018/1999 of the European Parliament and of the Council (*).

(*) 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).';

(f) in paragraph 3, first subparagraph, point (k) is replaced by the following:

'(k) to promote skill formation and reallocation of labour in order to contribute to a just transition to a climate-neutral economy, in particular in regions most affected by the transition of jobs, in close coordination with the social partners, and to invest in upskilling and reskilling of workers potentially affected by the transition, including workers in maritime transport;

(l) to address any residual risk of carbon leakage in the sectors covered by Annex I to Regulation (EU) 2023/956 of the European Parliament and of the Council (*), supporting the transition and promoting their decarbonisation in accordance with State aid rules.

(*) Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52).';

(g) in paragraph 3, the following subparagraph is inserted after the first subparagraph:

'When determining the use of revenues generated from the auctioning of the allowances, Member States shall take into account the need to continue scaling up international climate finance in vulnerable third countries referred to in the first subparagraph, point (j).';

(h) in paragraph 3, the second subparagraph is replaced by the following:

'Member States shall be deemed to have fulfilled the provisions of this paragraph if they have in place and implement fiscal or financial support policies, including in particular in developing countries, or domestic regulatory policies, which leverage financial support, established for the purposes set out in the first subparagraph and which have a value equivalent to the revenues referred to in the first subparagraph.';

(i) in paragraph 3, the third subparagraph is replaced by the following:

'Member States shall inform the Commission as to the use of revenues and the actions taken pursuant to this paragraph in their reports submitted under Article 19(2) of Regulation (EU) 2018/1999, specifying, where relevant and as appropriate, which revenues are used and the actions that are taken to implement their integrated national energy and climate plans submitted in accordance with that Regulation, and their territorial just transition plans prepared in accordance with Article 11 of Regulation (EU) 2021/1056 of the European Parliament and of the Council (*).

The reporting shall be sufficiently detailed to enable the Commission to assess the Member States' compliance with the first subparagraph.

(*) Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1).';

(j) in paragraph 4, the first subparagraph is replaced by the following:

'The Commission is empowered to adopt delegated acts in accordance with Article 23 of this Directive to supplement this Directive concerning the timing, administration and other aspects of auctioning, including modalities for auctioning which are necessary for the transfer of a share of revenues to the Union budget as external assigned revenue in accordance with Article 30d(4) of this Directive or as own resources in accordance with Article 311, third paragraph, TFEU, in order to ensure that it is conducted in an open, transparent, harmonised and non-discriminatory manner. To that end, the process shall be predictable, in particular as regards the timing and sequencing of auctions and the estimated amount of allowances to be made available.';

(k) paragraph 5 is replaced by the following:

'5. The Commission shall monitor the functioning of the European carbon market. Each year, it shall submit a report to the European Parliament and to the Council on the functioning of the carbon market and on other relevant climate and energy policies, including the operation of the auctions, liquidity and the volumes traded, and summarising the information provided by the European Securities and Markets Authority (ESMA) in accordance with paragraph 6 of this Article and the information provided by Member States on the financial measures referred to in Article 10a(6). If necessary, Member States shall ensure that any relevant information is submitted to the Commission at least two months before the Commission adopts the report.';

(l) the following paragraph is added:

'6. ESMA shall regularly monitor the integrity and transparency of the European carbon market, in particular with regard to market volatility and price evolution, the operation of the auctions, trading operations on the market for emission allowances and derivatives thereof, including over-the-counter trading, liquidity and the volumes traded, and the categories and trading behaviour of market participants, including positions of financial intermediaries. ESMA shall include the relevant findings and, where necessary, make recommendations in its assessments to the European Parliament, to the Council, to the Commission and to the European Systemic Risk Board in accordance with Article 32(3) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council (*). For the purposes of the tasks referred to in the first sentence of this paragraph, ESMA and the relevant competent authorities shall cooperate and exchange detailed information on all types of transactions in accordance with Article 25 of Regulation (EU) No 596/2014 of the European Parliament and of the Council (**).

(*) Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

(**) Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).';

(13) Article 10a is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the following subparagraphs are inserted after the second subparagraph:

'If an installation is covered by the obligation to conduct an energy audit or to implement a certified energy management system under Article 8 of Directive 2012/27/EU of the European Parliament and of the Council (*) and if the recommendations of the audit report or of the certified energy management system are not implemented, unless the pay-back time for the relevant investments exceeds three years or unless the costs of those investments are disproportionate, then the amount of free allocation shall be reduced by 20 %. The amount of free allocation shall not be reduced if an operator demonstrates that it has implemented other measures which lead to greenhouse gas emission reductions equivalent to those recommended by the audit report or by the certified energy management system for the installation concerned.

The Commission shall supplement this Directive by providing, in the delegated acts adopted pursuant to this paragraph and without prejudice to the rules applicable under Directive 2012/27/EU, for administratively simple harmonised rules for the application of the third subparagraph of this paragraph that ensure that the application of the conditionality does not jeopardise a level playing field, environmental integrity or equal treatment between installations across the Union. Those harmonised rules shall in particular provide for timelines, for criteria for the recognition of implemented energy efficiency measures as well as for alternative measures reducing greenhouse gas emissions, using the procedure for national implementing measures in accordance with Article 11(1) of this Directive.

In addition to the requirements set out in the third subparagraph of this paragraph, the reduction by 20 % referred to in that subparagraph shall be applied where, by 1 May 2024, operators of installations whose greenhouse gas emission levels are higher than the 80th percentile of emission levels for the relevant product benchmarks have not established a climate-neutrality plan for each of those installations for its activities covered by this Directive. That plan shall contain the elements specified in Article 10b(4) and be established in accordance with the implementing acts provided for in that Article. Article 10b(4) shall be read as only referring to the installation level. The achievement of the targets and milestones referred to in Article 10b(4), third subparagraph, point (b), shall be verified in respect of the period until 31 December 2025 and in respect of each period ending 31 December of each fifth year thereafter, in accordance with the verification and accreditation procedures provided for in Article 15. No free allowances beyond 80 % shall be allocated if achievement of the intermediate targets and milestones has not been verified in respect of the period until the end of 2025 or in respect of the period from 2026 to 2030.

Allowances that are not allocated due to a reduction of free allocation in accordance with the third and fifth subparagraphs of this paragraph shall be used to exempt installations from the adjustment in accordance with paragraph 5 of this Article. Where any such allowances remain, 50 % of those allowances shall be made available to support innovation in accordance with paragraph 8 of this Article. The other 50 % of those allowances shall be auctioned in accordance with Article 10(1) of this Directive and Member States should use the respective revenues to address any residual risk of carbon leakage in the sectors covered by Annex I to Regulation (EU) 2023/956, supporting the transition and promoting their decarbonisation in accordance with State aid rules.

No free allocation shall be given to installations in sectors or subsectors to the extent they are covered by other measures to address the risk of carbon leakage as established by Regulation (EU) 2023/956. The measures referred to in the first subparagraph of this paragraph shall be adjusted accordingly.

(*) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).';

(ii) the third subparagraph is replaced by the following:

'For each sector and subsector, in principle, the benchmark shall be calculated for products rather than for inputs, in order to maximise greenhouse gas emission reductions and energy efficiency savings throughout each production process of the sector or the subsector concerned. In order to provide further incentives for reducing greenhouse gas emissions and improving energy efficiency and to ensure a level playing field for installations using new technologies that partly reduce or fully eliminate greenhouse gas emissions, and installations using existing technologies, the determined Union-wide ex-ante benchmarks shall be reviewed in relation to their application in the period from 2026 to 2030, with a view to potentially modifying the definitions and system boundaries of existing product benchmarks, considering as guiding principles the circular use-potential of materials and that the benchmarks should be independent of the feedstock and the type of production process, where the production processes have the same purpose. The Commission shall endeavour to adopt the implementing acts for the purpose of determining the revised benchmark values for free allocation in accordance with paragraph 2, third subparagraph, as soon as possible and before the start of the period from 2026 to 2030.';

(b) the following paragraph is inserted:

'1a. Subject to the application of Regulation (EU) 2023/956, no free allocation shall be given in relation to the production of goods listed in Annex I to that Regulation.

By way of derogation from the first subparagraph of this paragraph, for the first years of application of Regulation (EU) 2023/956, the production of goods listed in Annex I to that Regulation shall benefit from free allocation in reduced amounts. A factor reducing the free allocation for the production of those goods shall be applied (CBAM factor). The CBAM factor shall be equal to 100 % for the period between the entry into force of that Regulation and the end of 2025 and, subject to the application of provisions referred to in Article 36(2), point (b), of that Regulation, shall be equal to 97,5 % in 2026, 95 % in 2027, 90 % in 2028, 77,5 % in 2029, 51,5 % in 2030, 39 % in 2031, 26,5 % in 2032 and 14 % in 2033. From 2034, no CBAM factor shall apply.

The reduction of free allocation shall be calculated annually as the average share of the demand for free allocation for the production of goods listed in Annex I to Regulation (EU) 2023/956 compared to the calculated total free allocation demand for all installations, for the relevant period referred to in Article 11(1) of this Directive. The CBAM factor shall be applied in this calculation.

Allowances resulting from the reduction of free allocation shall be made available to support innovation in accordance with paragraph 8.

By 31 December 2024 and as part of its annual report to the European Parliament and to the Council pursuant to Article 10(5) of this Directive, the Commission shall assess the carbon leakage risk for goods subject to CBAM and produced in the Union for export to third countries which do not apply the EU ETS or a similar carbon pricing mechanism. The report shall in particular assess the carbon leakage risk in sectors to which CBAM will apply, in particular the role and accelerated uptake of hydrogen, and the developments as regards trade flows and the embedded emissions of goods produced by those sectors on the global market. Where the report concludes that there is a carbon leakage risk for goods produced in the Union for export to third countries which do not apply the EU ETS or an equivalent carbon pricing mechanism, the Commission shall, where appropriate, submit a legislative proposal to address that carbon leakage risk in a manner that is compliant with the rules of the World Trade Organization, including Article XX of the General Agreement on Tariffs and Trade 1994, and takes into account the decarbonisation of installations in the Union.';

(c) paragraph 2 is amended as follows:

(i) in the third subparagraph, point (c) is replaced by the following:

'(c) For the period from 2026 to 2030, the benchmark values shall be determined in the same manner as set out in points (a) and (d) of this subparagraph, taking into account point (e) of this subparagraph, on the basis of information submitted pursuant to Article 11 for the years 2021 and 2022 and on the basis of applying the annual reduction rate in respect of each year between 2008 and 2028.';

(ii) in the third subparagraph, the following points are added:

'(d) Where the annual reduction rate exceeds 2,5 % or is below 0,3 %, the benchmark values for the period from 2026 to 2030 shall be the benchmark values applicable in the period from 2013 to 2020 reduced by whichever of those two percentage rates is relevant, in respect of each year between 2008 and 2028.

(e) For the period from 2026 to 2030, the annual reduction rate for the product benchmark for hot metal shall not be affected by the change of benchmark definitions and system boundaries applicable pursuant to paragraph 1, eighth subparagraph.';

(iii) the fourth subparagraph is replaced by the following:

'By way of derogation regarding the benchmark values for aromatics and syngas, those benchmark values shall be adjusted by the same percentage as the refineries benchmarks in order to preserve a level playing field for producers of those products.';

(d) paragraphs 3 and 4 are deleted;

(e) paragraph 5 is replaced by the following:

'5. In order to respect the auctioning share set out in Article 10, for every year in which the sum of free allocations does not reach the maximum amount that respects the auctioning share, the remaining allowances up to that amount shall be used to prevent or limit reduction of free allocations to respect the auctioning share in later years. Where, nonetheless, the maximum amount is reached, free allocations shall be adjusted accordingly. Any such adjustment shall be done in a uniform manner. However, installations whose greenhouse gas emission levels are below the average of the 10 % most efficient installations in a sector or subsector in the Union for the relevant benchmarks in a year when the adjustment applies shall be exempted from that adjustment.';

(f) in paragraph 6, the first subparagraph is replaced by the following:

'Member States should adopt financial measures in accordance with the second and fourth subparagraphs of this paragraph in favour of sectors or subsectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, provided that such financial measures are in accordance with State aid rules, and in particular do not cause undue distortions of competition in the internal market. The financial measures adopted should not compensate indirect costs covered by free allocation in accordance with the benchmarks established pursuant to paragraph 1 of this Article. Where a Member State spends an amount higher than the equivalent of 25 % of the auction revenues referred to in Article 10(3) for the year in which the indirect costs were incurred, it shall set out the reasons for exceeding that amount.';

(g) in paragraph 7, the second subparagraph is replaced by the following:

'From 2021, allowances that, pursuant to paragraphs 19, 20 and 22, are not allocated to installations shall be added to the amount of allowances set aside in accordance with the first subparagraph, first sentence, of this paragraph.';

(h) paragraph 8 is replaced by the following:

'8. 345 million allowances from the quantity which could otherwise be allocated for free pursuant to this Article, and 80 million allowances from the quantity which could otherwise be auctioned pursuant to Article 10, as well as the allowances resulting from the reduction of free allocation referred to in paragraph 1a of this Article, shall be made available to a fund (the 'Innovation Fund') with the objective of supporting innovation in low- and zero-carbon techniques, processes and technologies that contribute significantly to the decarbonisation of the sectors covered by this Directive and contribute to zero pollution and circularity objectives, including projects aimed at scaling up such techniques, processes and technologies with a view to their broad roll-out across the Union. Such projects shall possess significant greenhouse gas emissions abatement potential and contribute to energy and resource savings in line with the Union's climate and energy targets for 2030.

The Commission shall frontload Innovation Fund allowances to ensure that an adequate amount of resources is available to foster innovation, including for scaling up.

Allowances that are not issued to aircraft operators due to them ceasing operations and which are not necessary to cover any shortfall in surrenders by those operators shall also be used for innovation support as referred to in the first subparagraph.

Moreover, 5 million allowances from the quantity referred to in Article 3c(5) and (7) relating to aviation allocations for 2026 shall be made available for innovation support as referred to in the first subparagraph of this paragraph.

In addition, 50 million unallocated allowances from the market stability reserve shall supplement any remaining revenues from the 300 million allowances available in the period from 2013 to 2020 under Commission Decision 2010/670/EU (*), and shall be used in a timely manner for innovation support as referred to in the first subparagraph of this paragraph.

The Innovation Fund shall cover the sectors listed in Annexes I and III, as well as products and processes substituting carbon intensive ones produced or used in sectors listed in Annex I, including innovative renewable energy and energy storage technologies and environmentally safe carbon capture and utilisation (CCU) that contributes substantially to mitigating climate change, in particular for unavoidable process emissions, and shall help stimulate the construction and operation of projects aimed at the environmentally safe capture, transport and geological storage (CCS) of CO_2, in particular for unavoidable industrial process emissions, and the direct

capture of CO_2 from the atmosphere with safe, sustainable and permanent storage (DACS), in geographically balanced locations. The Innovation Fund may also support breakthrough innovative technologies and infrastructure, including production of low- and zero-carbon fuels, to decarbonise the maritime, aviation, rail and road transport sectors, including collective forms of transport such as public transport and coach services.

For aviation, it may also support electrification and actions to reduce the overall climate impacts of aviation.

The Commission shall give special attention to projects in sectors covered by Regulation (EU) 2023/956 to support innovation in low-carbon technologies, CCU, CCS, renewable energy and energy storage, in a way that contributes to mitigating climate change with the aim of awarding, over the period from 2021 to 2030, projects in those sectors a significant share of the equivalence in financial value of the allowances referred to in paragraph 1a, fourth subparagraph, of this Article. In addition, the Commission may launch, before 2027, calls for proposals dedicated to the sectors covered by that Regulation.

The Commission shall also give special attention to projects contributing to the decarbonisation of the maritime sector and shall include topics dedicated to that purpose in the Innovation Fund calls for proposals, where appropriate, including to electrify maritime transport, and to address its full climate impact, including black carbon emissions. Such calls for proposals shall also, in the criteria used for the selection of projects, take particular account of the potential for increasing biodiversity protection and for reducing noise and water pollution from projects and investments.

The Innovation Fund may in accordance with paragraph 8a support projects through competitive bidding, such as CDs, CCDs or fixed premium contracts to support decarbonisation technologies for which the carbon price might not be a sufficient incentive.

The Commission shall seek synergies between the Innovation Fund and Horizon Europe, in particular in relation to European partnerships, and shall, where relevant, seek synergies between the Innovation Fund and other Union programmes.

Projects in the territory of all Member States, including small-scale and medium-scale projects, shall be eligible, and, for maritime activities, projects with clear added value for the Union shall be eligible. Technologies receiving support shall be innovative and not yet commercially viable at a similar scale without support, but shall represent breakthrough solutions or be sufficiently mature for application on a pre-commercial scale.

The Commission shall ensure that the allowances destined for the Innovation Fund are auctioned in accordance with the principles and modalities referred to in Article 10(4) of this Directive. Proceeds from the auctioning shall constitute external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (**). Budgetary commitments for actions extending over more than one financial year may be broken down into annual instalments over several years.

The Commission shall, on request, provide technical assistance to Member States with low effective participation in projects under the Innovation Fund for the purpose of increasing the capacities of the requesting Member State to support the efforts of project proponents in their respective territories to submit applications for funding from the Innovation Fund, in order to improve the effective geographical participation in the Innovation Fund and increase the overall quality of submitted projects. The Commission shall pursue effective, quality-based geographical coverage in relation to funding from the Innovation Fund across the Union and shall ensure comprehensive monitoring of progress and appropriate follow-up in that respect.

Subject to the agreement of applicants, following the closure of a call for proposals, the Commission shall inform Member States of the applications for funding of projects in their respective territories and shall provide them with detailed information concerning those applications in order to facilitate Member States' coordination of the support for projects. In addition, the Commission shall inform Member States about the list of pre-selected projects prior to the award of the support.

Projects shall be selected by means of a transparent selection procedure, in a technology-neutral manner in accordance with the objectives of the Innovation Fund as set out in the first subparagraph of this paragraph and on the basis of objective and transparent criteria, taking into account the extent to which projects provide a

significant contribution to the Union's climate and energy targets while contributing to the zero pollution and circularity objectives in accordance with the first subparagraph of this paragraph, and, where relevant, the extent to which projects contribute to achieving emission reductions well below the benchmarks referred to in paragraph 2. Projects shall have the potential for widespread application or to significantly lower the costs of transitioning towards a climate-neutral economy in the sectors concerned. Priority shall be given to innovative technologies and processes addressing multiple environmental impacts. Projects involving CCU shall deliver a net reduction in emissions and ensure avoidance or permanent storage of CO_2. In the case of grants provided through calls for proposals, up to 60 % of the relevant costs of projects may be supported, out of which up to 40 % need not be dependent on verified avoidance of greenhouse gas emissions, provided that pre-determined milestones, taking into account the technology deployed, are attained. In the case of support provided through competitive bidding and in the case of technical assistance support, up to 100 % of the relevant costs of projects may be supported. The potential for emission reductions in multiple sectors offered by combined projects, including in nearby areas, shall be taken into account in the criteria used for the selection of projects.

Projects funded by the Innovation Fund shall be required to share knowledge with other relevant projects as well as with Union-based researchers having a legitimate interest. The terms of knowledge sharing shall be defined by the Commission in calls for proposals.

The calls for proposals shall be open and transparent. In preparing the calls for proposals, the Commission shall strive to ensure that all sectors are duly covered. The Commission shall take measures to ensure that the calls are communicated as widely as possible, and especially to small and medium-sized enterprises.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning rules on the operation of the Innovation Fund, including the selection procedure and criteria, and the eligible sectors and technological requirements for the different types of support.

No project shall receive support via the mechanism under this paragraph that exceeds 15 % of the total number of allowances available for this purpose. Those allowances shall be taken into account under paragraph 7.

By 31 December 2023 and every year thereafter, the Commission shall report to the Climate Change Committee referred to in Article 22a(1) of this Directive, on the implementation of the Innovation Fund, providing an analysis of projects awarded funding, by sector and by Member State, and the expected contribution of those projects towards the objective of climate neutrality in the Union as set out in Regulation (EU) 2021/1119. The Commission shall provide the report to the European Parliament and to the Council and shall make that report public.

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(*) Commission Decision 2010/670/EU of 3 November 2010 laying down criteria and measures for the financing of commercial demonstration projects that aim at the environmentally safe capture and geological storage of CO_2 as well as demonstration projects of innovative renewable energy technologies under the scheme for greenhouse gas emission allowance trading within the Community established by Directive 2003/87/EC of the European Parliament and of the Council (OJ L 290, 6.11.2010, p. 39).

(**) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).';

(i) the following paragraphs are inserted:

'8a. For CDs and CCDs awarded upon conclusion of a competitive bidding mechanism, appropriate coverage through budgetary commitments resulting from the proceeds of auctioning of allowances available in the Innovation Fund shall be provided and those budgetary commitments may be broken down into annual instalments over several years. For the first two rounds of the competitive bidding mechanism, coverage of the financial liability related to CDs and CCDs shall be fully ensured with appropriations resulting from the proceeds of auctioning of allowances allocated to the Innovation Fund pursuant to paragraph 8.

On the basis of a qualitative and quantitative assessment by the Commission of the financial risks arising from the implementation of CDs and CCDs, to be made after the conclusion of the first two rounds of the competitive bidding mechanism and each time it is necessary thereafter in accordance with the principle of prudence, whereby assets and profits are not to be overestimated and liabilities and losses are not to be underestimated, the Commission may, in accordance with the empowerment in the eighth subparagraph, decide to cover only part of the financial liability related to CDs and CCDs through the means referred to in the first subparagraph and the remaining part through other means. The Commission shall aim to limit the use of other means of coverage.

Where the assessment leads to the conclusion that other means of coverage are necessary to realise the full potential of the CDs and CCDs, the Commission shall aim for a balanced mix of other means of coverage. By way of derogation from Article 210(1) of Regulation (EU, Euratom) 2018/1046, the Commission shall determine the extent of the use of other means of coverage pursuant to the delegated act provided for in the eighth subparagraph of this paragraph.

The remaining financial liability shall be sufficiently covered, having regard to the principles of Title X of Regulation (EU, Euratom) 2018/1046, if necessary, adapted to the specificities of CDs and CCDs, by way of derogation from Article 209(2), points (d) and (h), Article 210(1), Article 211(1), (2), (4) and (6), Articles 212, 213 and 214, Article 218(1) and Article 219(3) and (6) of that Regulation. Where applicable, other means of coverage, the provisioning rate and the necessary derogations shall be established in a delegated act provided for in the eighth subparagraph of this paragraph.

The Commission shall not use more than 30 % of the proceeds of the auctioning of allowances allocated to the Innovation Fund pursuant to paragraph 8 for provisioning for CDs and CCDs.

The provisioning rate shall be no lower than 50 % of the total financial liability borne by the Union budget for CDs and CCDs. When establishing the provisioning rate, the Commission shall take into account elements that may reduce the financial risks for the Union budget, beyond the appropriations available in the Innovation Fund, such as possible sharing of liability with Member States on a voluntary basis, or a possible re-insurance mechanism from the private sector. The Commission shall review the provisioning rate at least every three years from the date of application of the delegated act establishing it for the first time.

In order to avoid speculative applications, access to competitive bidding may be made conditional on the payment by applicants of a deposit to be forfeited in the event of non-fulfilment of the contract. Such forfeited deposits shall be used for the Innovation Fund as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2018/1046. Any contribution paid to the granting authority by a beneficiary in accordance with the terms of the CD or CCD where the reference price is higher than the strike price ('reflows') shall be used for the Innovation Fund as external assigned revenue pursuant to Article 21(5) of that Regulation.

The Commission is empowered to adopt delegated acts in accordance with Article 23 of this Directive to supplement this Directive in order to provide for and detail other means of coverage, if any, and, where applicable, the provisioning rate and the necessary additional derogations from Title X of Regulation (EU, Euratom) 2018/1046 as set out in the fourth subparagraph of this paragraph, and the rules on the operation of the competitive bidding mechanism, in particular in relation to deposits and reflows.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to amend the fifth subparagraph of this paragraph by raising the limit of 30 % referred to in that subparagraph by no more than a total of 20 percentage points where necessary to respond to a demand for CDs and CCDs, taking into account the experience of the first rounds of the competitive bidding mechanism and considering the need to find an appropriate balance in the support from the Innovation Fund between grants and such contracts.

Financial support from the Innovation Fund shall be proportionate to the policy objectives set out in this Article and shall not lead to undue distortions of the internal market. To this end, support shall only be granted to cover additional costs or investment risks that cannot be borne by investors under normal market conditions.

8b. 40 million allowances from the quantity which could otherwise be allocated for free pursuant to this Article, and 10 million allowances from the quantity which could otherwise be auctioned pursuant to Article 10 of this Directive shall be made available for the Social Climate Fund established by Regulation (EU) 2023/955 of the European Parliament and of the Council (*). The Commission shall ensure that the allowances destined for the Social Climate Fund are auctioned in 2025 in accordance with the principles and modalities referred to in Article 10(4) of this Directive and the delegated act adopted in accordance with that Article. The revenues from that auctioning shall constitute external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046, and shall be used in accordance with the rules applicable to the Social Climate Fund.

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(*) Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060 (OJ L 130, 16.5.2023, p. 1).';

(j) paragraph 19 is replaced by the following:

'19. No free allocation shall be given to an installation that has ceased operating. Installations for which the greenhouse gas emissions permit has expired or has been withdrawn and installations for which the operation or resumption of operation is technically impossible shall be considered to have ceased operations.';

(k) the following paragraph is added:

'22. Where corrections to free allocations granted pursuant to Article 11(2) are necessary, such corrections shall be carried out with allowances from, or by adding allowances to, the amount of allowances set aside in accordance with paragraph 7 of this Article.';

(14) in Article 10b(4), the following subparagraphs are added:

'In a Member State where, on average in the years from 2014 to 2018, its share of emissions from district heating of the Union total of such emissions, divided by that Member State's share of GDP of the Union's total GDP, is greater than five, an additional free allocation of 30 % of the quantity determined pursuant to Article 10a shall be given to district heating for the period from 2026 to 2030, provided that an investment volume equivalent to the value of that additional free allocation is invested to significantly reduce emissions before 2030 in accordance with climate-neutrality plans referred to in the third subparagraph of this paragraph and that the achievement of the targets and milestones referred to in point (b) of that subparagraph is confirmed by the verification carried out in accordance with the fourth subparagraph of this paragraph.

By 1 May 2024, operators of district heating shall establish a climate-neutrality plan for the installations for which they apply for additional free allocation in accordance with the second subparagraph of this paragraph. That plan shall be consistent with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119 and shall set out:

(a) measures and investments to reach climate neutrality by 2050 at installation or company level, excluding the use of carbon offset credits;

(b) intermediate targets and milestones to measure, by 31 December 2025 and by 31 December of each fifth year thereafter, progress made towards reaching climate neutrality as set out in point (a) of this subparagraph;

(c) an estimate of the impact of each of the measures and investments referred to in point (a) of this subparagraph as regards the reduction of greenhouse gas emissions.

The achievement of the targets and milestones referred to in the third subparagraph, point (b), of this paragraph, shall be verified in respect of the period until 31 December 2025 and in respect of each period ending 31 December of each fifth year thereafter, in accordance with the verification and accreditation procedures provided for in Article 15. No free allowances beyond the amount referred to in the first subparagraph of this paragraph shall be allocated if the achievement of the intermediate targets and milestones has not been verified in respect of the period until the end of 2025 or in respect of the period from 2026 to 2030.

The Commission shall adopt implementing acts to specify the minimal content of the information referred to in the third subparagraph, points (a), (b) and (c), of this paragraph, and the format of the climate-neutrality plans referred to in that subparagraph and in Article 10a(1), fifth subparagraph. The Commission shall seek synergies with similar plans as provided for in Union law. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

(15) in Article 10c, paragraph 7 is replaced by the following:

'7. Member States shall require benefiting electricity generating installations and network operators to report, by 28 February of each year, on the implementation of their selected investments, including the balance of free allocation and investment expenditure incurred and the types of investments supported. Member States shall report on this to the Commission, and the Commission shall make such reports public.';

(16) the following article is inserted:

'*Article 10ca*

Earlier deadline for transitional free allocation for the modernisation of the energy sector

By way of derogation from Article 10c, the Member States concerned may only give transitional free allocation to installations in accordance with that Article for investments carried out until 31 December 2024. Any allowances available to the Member States concerned in accordance with Article 10c for the period from 2021 to 2030 that are not used for such investments shall, in the proportion determined by the respective Member State:

(a) be added to the total quantity of allowances that the Member State concerned is to auction pursuant to Article 10(2); or

(b) be used to support investments within the framework of the Modernisation Fund referred to in Article 10d, in accordance with the rules applicable to the revenue from allowances referred to in Article 10d(4).

By 15 May 2024, the Member State concerned shall notify the Commission of the respective amounts of allowances to be used under Article 10(2), first subparagraph, point (a), and, by way of derogation from Article 10d(4), second sentence, under Article 10d.';

(17) Article 10d is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. A fund to support investments proposed by the beneficiary Member States, including the financing of small-scale investment projects, to modernise energy systems and improve energy efficiency shall be established for the period from 2021 to 2030 (the "Modernisation Fund"). The Modernisation Fund shall be financed through the auctioning of allowances as set out in Article 10, for the beneficiary Member States set out therein.

The investments supported shall be consistent with the aims of this Directive, as well as the objectives of the communication of the Commission of 11 December 2019 on "The European Green Deal" and Regulation (EU) 2021/1119 and the long-term objectives as expressed in the Paris Agreement. The beneficiary Member States may, where appropriate, use the resources of the Modernisation Fund to finance investments involving the adjacent Union border regions. No support from the Modernisation Fund shall be provided to energy generation facilities that use fossil fuels. However, revenue from allowances covered by a notification pursuant to paragraph 4 of this Article may be used for investments involving gaseous fossil fuels.

Furthermore, revenue from allowances referred to in Article 10(1), third subparagraph, of this Directive may, where the activity qualifies as environmentally sustainable under Regulation (EU) 2020/852 of the European Parliament and of the Council (*) and is duly justified for reasons of ensuring energy security, be used for investments involving gaseous fossil fuels provided that, for energy generation, the allowances are auctioned before 31 December 2027 and, for investments involving downstream uses of gas, the allowances are auctioned before 31 December 2028.

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(*) Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).';

(b) paragraph 2 is replaced by the following:

'2. At least 80 % of the revenue from allowances referred to in Article 10(1), third subparagraph, and from allowances covered by a notification pursuant to paragraph 4 of this Article, and at least 90 % of the revenue from allowances referred to in Article 10(1), fourth subparagraph, shall be used to support investments in the following:

(a) the generation and use of electricity from renewable sources, including renewable hydrogen;

(b) heating and cooling from renewable sources;

(c) the reduction of overall energy use through energy efficiency, including in industry, transport, buildings, agriculture and waste;

(d) energy storage and the modernisation of energy networks, including demand-side management, district heating pipelines, grids for electricity transmission, the increase of interconnections between Member States and infrastructure for zero-emission mobility;

(e) support for low-income households, including in rural and remote areas, to address energy poverty and to modernise their heating systems; and

(f) a just transition in carbon-dependent regions in the beneficiary Member States, so as to support the redeployment, reskilling and up-skilling of workers, education, job-seeking initiatives and start-ups, in dialogue with civil society and social partners, in a manner that is consistent with and contributes to the relevant actions included by the Member States in their territorial just transition plans in accordance with Article 8(2), first subparagraph, point (k), of Regulation (EU) 2021/1056, where relevant.';

(c) paragraph 11 is replaced by the following:

'11. The investment committee shall report annually to the Commission on experience with the evaluation of investments, in particular in terms of emission reductions and abatement costs. By 31 December 2024, taking into consideration the findings of the investment committee, the Commission shall review the areas for projects referred to in paragraph 2 and the basis on which the investment committee makes its recommendations.

The investment committee shall arrange for the publication of the annual report. The Commission shall provide the annual report to the European Parliament and to the Council.';

(18) the following article is inserted:

'*Article 10f*

"Do no significant harm" principle

From 1 January 2025, the beneficiary Member States and the Commission shall use the revenues generated from the auctioning of allowances destined for the Innovation Fund pursuant to Article 10a(8) of this Directive, and of the allowances referred to in Article 10(1), third and fourth subparagraphs, of this Directive in accordance with the "do no significant harm" criteria set out in Article 17 of Regulation (EU) 2020/852, where such revenues are used for an economic activity for which technical screening criteria for determining whether an economic activity causes significant harm to one or more of the relevant environmental objectives have been established pursuant to Article 10(3), point (b), of that Regulation.';

(19) in Article 11(2), the date '28 February' is replaced by '30 June';

(20) the title of Chapter IV is replaced by the following:

'Provisions Applying to Aviation, Maritime Transport and Stationary Installations';

(21) Article 12 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Member States shall ensure that allowances issued by a competent authority of another Member State are recognised for the purpose of meeting an operator's, an aircraft operator's or a shipping company's obligations under paragraph 3.';

(b) paragraph 2a is deleted;

(c) paragraph 3 is replaced by the following:

'3. The Member States, administering Member States and administering authorities in respect of a shipping company shall ensure that, by 30 September each year:

(a) the operator of each installation surrenders a number of allowances that is equal to the total emissions from that installation during the preceding calendar year, as verified in accordance with Article 15;

(b) each aircraft operator surrenders a number of allowances that is equal to its total emissions during the preceding calendar year, as verified in accordance with Article 15;

(c) each shipping company surrenders a number of allowances that is equal to its total emissions during the preceding calendar year, as verified in accordance with Article 3ge.

Member States, administering Member States and administering authorities in respect of a shipping company shall ensure that allowances surrendered in accordance with the first subparagraph are subsequently cancelled.';

(d) the following paragraphs are inserted after paragraph 3:

'3-e. By way of derogation from paragraph 3, first subparagraph, point (c), shipping companies may surrender 5 % fewer allowances than their verified emissions released until 31 December 2030 from ice-class ships, provided that such ships have the ice class IA or IA Super or an equivalent ice class, established based on HELCOM Recommendation 25/7.

Where fewer allowances are surrendered compared to the verified emissions, once the difference between verified emissions and allowances surrendered has been established in respect of each year, an amount of allowances corresponding to that difference shall be cancelled rather than auctioned pursuant to Article 10.

3-d. By way of derogation from paragraph 3, first subparagraph, point (c), of this Article and Article 16, the Commission shall, at the request of a Member State, provide by means of an implementing act that Member States are to consider the requirements set out in those provisions to be satisfied and that they are to take no action against shipping companies in respect of emissions released until 31 December 2030 from voyages performed by passenger ships, other than cruise passenger ships, and by ro-pax ships, between a port of an island under the jurisdiction of that requesting Member State, with no road or rail link with the mainland and with a population of fewer than 200 000 permanent residents according to the latest best data available in 2022, and a port under the jurisdiction of that same Member State, and from the activities, within a port, of such ships in relation to such voyages.

The Commission shall publish a list of the islands referred to in the first subparagraph and the ports concerned and keep that list up to date.

3-c. By way of derogation from paragraph 3, first subparagraph, point (c), of this Article and Article 16, the Commission shall, at the joint request of two Member States, one of which having no land border with another Member State and the other Member State being the geographically closest Member State to the Member State without such a land border, provide by means of an implementing act that Member States are to consider the requirements set out in those provisions to be satisfied and that they are to take no action against shipping

companies in respect of emissions released until 31 December 2030 from voyages performed by passenger or ro-pax ships in the framework of a transnational public service contract or a transnational public service obligation, set out in the joint request, connecting the two Member States, and from the activities, within a port, of such ships in relation to such voyages.

3-b. An obligation to surrender allowances shall not arise in respect of emissions released until 31 December 2030 from voyages between a port located in an outermost region of a Member State and a port located in the same Member State, including voyages between ports within an outermost region and voyages between ports in the outermost regions of the same Member State, and from the activities, within a port, of such ships in relation to such voyages.';

(e) paragraph 3-a is replaced by the following:

'3-a. Where necessary, and for as long as is necessary, in order to protect the environmental integrity of the EU ETS, operators, aircraft operators, and shipping companies in the EU ETS shall be prohibited from using allowances that are issued by a Member State in respect of which there are obligations lapsing for operators, aircraft operators, and shipping companies. The delegated acts referred to in Article 19(3) shall include the measures necessary in the cases referred to in this paragraph.';

(f) the following paragraph is inserted:

'3b. An obligation to surrender allowances shall not arise in respect of emissions of greenhouse gases which are considered to have been captured and utilised in such a way that they have become permanently chemically bound in a product so that they do not enter the atmosphere under normal use, including any normal activity taking place after the end of the life of the product.

The Commission shall adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the requirements for considering that greenhouse gases have become permanently chemically bound as referred to in the first subparagraph of this paragraph.';

(g) paragraph 4 is replaced by the following:

'4. Member States shall take the necessary steps to ensure that allowances are cancelled at any time at the request of the person holding them. In the event of closure of electricity generation capacity in their territory due to additional national measures, Member States may cancel allowances, and are strongly encouraged to do so, from the total quantity of allowances to be auctioned by them referred to in Article 10(2) up to an amount corresponding to the average verified emissions of the installation concerned over a period of five years preceding the closure. The Member State concerned shall inform the Commission of such intended cancellation, or of the reasons for not cancelling, in accordance with the delegated acts adopted pursuant to Article 10(4).';

(22) in Article 14(1), the first subparagraph is replaced by the following:

'The Commission shall adopt implementing acts concerning the detailed arrangements for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I to this Directive, and non-CO_2 aviation effects on routes for which emissions are reported under this Directive, which shall be based on the principles for monitoring and reporting set out in Annex IV to this Directive and the requirements set out in paragraphs 2 and 5 of this Article. Those implementing acts shall also specify the global warming potential of each greenhouse gas and take into account up-to-date scientific knowledge on the effects of non-CO_2 aviation emissions in the requirements for monitoring and reporting of emissions and their effects, including non-CO_2 aviation effects. Those implementing acts shall provide for the application of the sustainability and greenhouse gas emission-saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, in order for such biomass to be zero-rated. They shall specify how to account for storage of emissions from a mix of zero-rated sources and sources that are not zero-rated. They shall also specify how to account for emissions from renewable fuels of non-biological origin and recycled carbon fuels, ensuring that such emissions are accounted for and that double counting is avoided.';

(23) Article 16 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Member States shall ensure the publication of the names of operators, aircraft operators and shipping companies that are in breach of requirements to surrender sufficient allowances under this Directive.';

(b) in paragraph 3, the date '30 April' is replaced by '30 September';

(c) the following paragraph is inserted:

'3a. The penalties set out in paragraph 3 shall also apply in respect of shipping companies.';

(d) the following paragraph is inserted:

'11a. In the case of a shipping company that has failed to comply with the surrender obligations for two or more consecutive reporting periods, and where other enforcement measures have failed to ensure compliance, the competent authority of the Member State of the port of entry may, after giving the opportunity to the shipping company concerned to submit its observations, issue an expulsion order, which shall be notified to the Commission, the European Maritime Safety Agency (EMSA), the other Member States and the flag State concerned. As a result of the issuing of such an expulsion order, every Member State, with the exception of the Member State whose flag the ship is flying, shall refuse entry of the ships under the responsibility of the shipping company concerned into any of its ports until the shipping company fulfils its surrender obligations in accordance with Article 12. Where the ship flies the flag of a Member State and enters or is found in one of its ports, the Member State concerned shall, after giving the opportunity to the shipping company concerned to submit its observations, detain the ship until the shipping company fulfils its surrender obligations.

Where a ship of a shipping company as referred to in the first subparagraph is found in one of the ports of the Member State whose flag the ship is flying, the Member State concerned may, after giving the opportunity to the shipping company concerned to submit its observations, issue a flag State detention order until the shipping company fulfils its surrender obligations. It shall inform the Commission, EMSA and the other Member States thereof. As a result of the issuing of such a flag State detention order, every Member State shall take the same measures as are required to be taken following the issuing of an expulsion order in accordance with the first subparagraph, second sentence.

This paragraph shall be without prejudice to international maritime rules applicable in the case of ships in distress.';

(24) Article 18b is replaced by the following:

'*Article 18b*

Assistance from the Commission, EMSA and other relevant organisations

1. For the purposes of carrying out its obligations under Article 3c(4) and Articles 3g, 3gd, 3ge, 3gf, 3gg and 18a, the Commission, the administering Member State and administering authorities in respect of a shipping company may request the assistance of EMSA or another relevant organisation and may conclude to that effect any appropriate agreements with those organisations.

2. The Commission, assisted by EMSA, shall endeavour to develop appropriate tools and guidance to facilitate and coordinate verification and enforcement activities related to the application of this Directive to maritime transport. As far as practicable, such guidance and tools shall be made available to the Member States and the verifiers for information-sharing purposes and in order to better ensure robust enforcement of the national measures transposing this Directive.';

(25) Article 23 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

'2. The power to adopt delegated acts referred to in Article 3c(6), Article 3d(3), Article 10(4), Article 10a(1), (8) and (8a), Article 10b(5), Article 12(3b), Article 19(3), Article 22, Article 24(3), Article 24a(1), Article 25a(1), Article 28c and Article 30j(1) shall be conferred on the Commission for an indeterminate period of time from 8 April 2018.

3. The delegation of power referred to in Article 3c(6), Article 3d(3), Article 10(4), Article 10a(1), (8) and (8a), Article 10b(5), Article 12(3b), Article 19(3), Article 22, Article 24(3), Article 24a(1), Article 25a(1), Article 28c and Article 30j(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.';

(b) paragraph 6 is replaced by the following:

'6. A delegated act adopted pursuant to Article 3c(6), Article 3d(3), Article 10(4), Article 10a(1), (8) or (8a), Article 10b(5), Article 12(3b), Article 19(3), Article 22, Article 24(3), Article 24a(1), Article 25a(1), Article 28c or Article 30j(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.';

(26) Article 29 is replaced by the following:

'*Article 29*

Report to ensure the better functioning of the carbon market

If the regular reports on the carbon market referred to in Article 10(5) and (6) contain evidence that the carbon market is not functioning properly, the Commission shall within a period of three months submit a report to the European Parliament and to the Council. The report may be accompanied, where appropriate, by legislative proposals aiming at increasing the transparency and integrity of the carbon market, including related derivative markets, and addressing the corrective measures to improve its functioning, as well as to enhance the prevention and detection of market abuse activities.';

(27) Article 29a is replaced by the following:

'*Article 29a*

Measures in the event of excessive price fluctuations

1. If the average allowance price for the six preceding calendar months is more than 2,4 times the average allowance price for the preceding two-year reference period, 75 million allowances shall be released from the market stability reserve in accordance with Article 1(7) of Decision (EU) 2015/1814.

The allowance price referred to in the first subparagraph of this paragraph shall, for allowances covered by Chapters II and III, be the price of auctions carried out in accordance with the delegated acts adopted pursuant to Article 10(4).

The preceding two-year reference period referred to in the first subparagraph shall be the two-year period that ends before the first month of the period of six calendar months referred to in that subparagraph.

Where the condition in the first subparagraph of this paragraph is met and paragraph 2 is not applicable, the Commission shall publish a notice to that effect in the *Official Journal of the European Union* indicating the date on which the condition was fulfilled.

The Commission shall publish within the first three working days of each month the average allowance price for the preceding six calendar months and the average allowance price for the preceding two-year reference period. If the condition referred to in the first subparagraph is not met, the Commission shall also publish the level that the average allowance price would have to reach in the next month in order to meet the condition referred to in that subparagraph.

2. When the condition for release of allowances from the market stability reserve pursuant to paragraph 1 has been met, the condition referred to in that paragraph shall not be considered to have been met again until at least twelve months after the end of the previous release.

3. The detailed arrangements for the application of the measures referred to in paragraphs 1 and 2 of this Article shall be laid down in the delegated acts referred to in Article 10(4).';

(28) Article 30 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. This Directive shall be kept under review in the light of international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement, and of any relevant commitments resulting from the Conferences of the Parties to the United Nations Framework Convention on Climate Change.';

(b) paragraph 2 is replaced by the following:

'2. The measures to support certain energy-intensive industries that may be subject to carbon leakage referred to in Articles 10a and 10b of this Directive shall also be kept under review in the light of climate policy measures in other major economies. In this context, the Commission shall also consider whether measures in relation to the compensation of indirect costs should be further harmonised. The measures applicable to CBAM sectors shall be kept under review in light of the application of Regulation (EU) 2023/956. Before 1 January 2028, and every two years thereafter, as part of its reports to the European Parliament and to the Council pursuant to Article 30(6) of that Regulation, the Commission shall assess the impact of CBAM on the risk of carbon leakage, including in relation to exports.

The report shall assess the need for taking additional measures, including legislative measures, to address carbon leakage risks. The report shall, where appropriate, be accompanied by a legislative proposal.';

(c) paragraph 3 is replaced by the following:

'3. The Commission shall report to the European Parliament and to the Council in the context of each global stocktake agreed under the Paris Agreement, in particular with regard to the need for additional Union policies and measures in view of necessary greenhouse gas reductions by the Union and its Member States, including in relation to the linear factor referred to in Article 9 of this Directive. The Commission may, where appropriate, submit legislative proposals to the European Parliament and to the Council to amend this Directive, in particular in order to ensure compliance with the climate-neutrality objective laid down in Article 2(1) of Regulation (EU) 2021/1119 and the Union climate targets laid down in Article 4 of that Regulation. When making its legislative proposals, the Commission shall, to that end, consider, inter alia, the projected indicative Union greenhouse gas budget for the period from 2030 to 2050 as referred to in Article 4(4) of that Regulation.';

(d) the following paragraphs are added:

'5. By 31 July 2026, the Commission shall report to the European Parliament and to the Council on the following matters, accompanied, where appropriate, by a legislative proposal and impact assessment:

(a) how negative emissions resulting from greenhouse gases that are removed from the atmosphere and safely and permanently stored could be accounted for and how those negative emissions could be covered by emissions trading, if appropriate, including a clear scope and strict criteria for such coverage, and safeguards to ensure that such removals do not offset necessary emission reductions in accordance with Union climate targets laid down in Regulation (EU) 2021/1119;

(b) the feasibility of lowering the 20 MW total rated thermal input thresholds for the activities in Annex I from 2031;

(c) whether all greenhouse gas emissions covered by this Directive are effectively accounted for, and whether double counting is effectively avoided; in particular, it shall assess the accounting of the greenhouse gas emissions which are considered to have been captured and utilised in a product in a manner other than that referred to in Article 12(3b).

6. When reviewing this Directive, in accordance with paragraphs 1, 2 and 3 of this Article, the Commission shall analyse how linkages between the EU ETS and other carbon markets can be established without impeding the achievement of the climate-neutrality objective and the Union climate targets laid down in Regulation (EU) 2021/1119.

7. By 31 July 2026, the Commission shall present a report to the European Parliament and to the Council in which it shall assess the feasibility of including municipal waste incineration installations in the EU ETS, including with a view to their inclusion from 2028 and with an assessment of the potential need for an option for a Member State to opt out until 31 December 2030. In that regard, the Commission shall take into account the importance of all sectors contributing to emission reductions and potential diversion of waste towards disposal by landfilling in the Union and waste exports to third countries. The Commission shall in addition take into account relevant criteria such as the effects on the internal market, potential distortions of competition, environmental integrity, alignment with the objectives of Directive 2008/98/EC of the European Parliament and of the Council (*) and robustness and accuracy with regard to the monitoring and calculation of emissions. The Commission shall, where appropriate and without prejudice to Article 4 of that Directive, accompany that report with a legislative proposal to apply the provisions of this Chapter to greenhouse gas emissions permits and the allocation and issue of additional allowances in respect of municipal waste incineration installations, and to prevent potential diversion of waste.

In the report referred to in the first subparagraph, the Commission shall also assess the possibility of including in the EU ETS other waste management processes, in particular landfills which create methane and nitrous oxide emissions in the Union. The Commission may, where appropriate, also accompany that report with a legislative proposal to include such other waste management processes in the EU ETS.

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(*) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).';

(29) the following Chapter is inserted after Article 30:

'Chapter IVa

Emissions Trading System for Buildings, Road Transport and additional Sectors

Article 30a

Scope

The provisions of this Chapter shall apply to emissions, greenhouse gas emissions permits, the issue and surrender of allowances, monitoring, reporting and verification in respect of the activity referred to in Annex III. This Chapter shall not apply to any emissions covered by Chapters II and III.

Article 30b

Greenhouse gas emissions permits

1. Member States shall ensure that, from 1 January 2025, no regulated entity carries out the activity referred to in Annex III unless that regulated entity holds a permit issued by a competent authority in accordance with paragraphs 2 and 3 of this Article.

2. An application to the competent authority by the regulated entity pursuant to paragraph 1 of this Article for a greenhouse gas emissions permit under this Chapter shall include, at least, a description of:

(a) the regulated entity;

(b) the type of fuels it releases for consumption and which are used for combustion in the sectors referred to in Annex III and the means through which it releases those fuels for consumption;

(c) the end use or end uses of the fuels released for consumption for the activity referred to in Annex III;

(d) the measures planned to monitor and report emissions, in accordance with the implementing acts referred to in Articles 14 and 30f;

(e) a non-technical summary of the information referred to in points (a) to (d) of this paragraph.

3. The competent authority shall issue a greenhouse gas emissions permit granting authorisation to the regulated entity referred to in paragraph 1 of this Article for the activity referred to in Annex III, if it is satisfied that the entity is capable of monitoring and reporting emissions corresponding to the quantities of fuels released for consumption pursuant to Annex III.

4. Greenhouse gas emissions permits shall contain, at least, the following:

(a) the name and address of the regulated entity;

(b) a description of the means by which the regulated entity releases the fuels for consumption in the sectors covered by this Chapter;

(c) a list of the fuels the regulated entity releases for consumption in the sectors covered by this Chapter;

(d) a monitoring plan that fulfils the requirements established by the implementing acts referred to in Article 14;

(e) reporting requirements established by the implementing acts referred to in Article 14;

(f) an obligation to surrender allowances issued under this Chapter, equal to the total emissions in each calendar year, as verified in accordance with Article 15, by the deadline laid down in Article 30e(2).

5. Member States may allow the regulated entities to update monitoring plans without changing the permit. Regulated entities shall submit any updated monitoring plans to the competent authority for approval.

6. The regulated entity shall inform the competent authority of any planned changes to the nature of its activity or to the fuels it releases for consumption, which may require updating the greenhouse gas emissions permit. Where appropriate, the competent authority shall update the permit in accordance with the implementing acts referred to in Article 14. Where there is a change in the identity of the regulated entity covered by this Chapter, the competent authority shall update the permit to include the name and address of the new regulated entity.

Article 30c

Union-wide quantity of allowances

1. The Union-wide quantity of allowances issued under this Chapter each year from 2027 shall decrease in a linear manner beginning in 2024. The 2024 value shall be defined as the 2024 emission limits, calculated on the basis of the reference emissions under Article 4(2) of Regulation (EU) 2018/842 of the European Parliament and of the Council (*) for the sectors covered by this Chapter and applying the linear reduction trajectory for all emissions within the scope of that Regulation. The quantity shall decrease each year after 2024 by a linear reduction factor of 5,10 %. By 1 January 2025, the Commission shall publish the Union-wide quantity of allowances for the year 2027.

2. The Union-wide quantity of allowances issued under this Chapter each year from 2028 shall decrease in a linear manner beginning from 2025 on the basis of the average emissions reported under this Chapter for the years 2024 to 2026. The quantity of allowances shall decrease by a linear reduction factor of 5,38 %, except if the conditions set out in point 1 of Annex IIIa apply, in which case the quantity shall decrease by a linear reduction factor adjusted in accordance with the rules set out in point 2 of Annex IIIa. By 30 June 2027, the Commission shall publish the Union-wide quantity of allowances for 2028 and, if required, the adjusted linear reduction factor.

3. The Union-wide quantity of allowances issued under this Chapter shall be adjusted for each year from 2028 to compensate for the quantity of allowances surrendered in cases where it was not possible to avoid double counting of emissions or where allowances have been surrendered for emissions not covered by this Chapter as referred to in Article 30f(5). The adjustment shall correspond to the total amount of allowances covered by this Chapter which were compensated for in the relevant reporting year pursuant to the implementing acts referred to in Article 30f(5), second subparagraph.

4. A Member State that, pursuant to Article 30j, unilaterally extends the activity referred to in Annex III to sectors that are not listed in that Annex shall ensure that the regulated entities concerned submit, by 30 April of the relevant year, to the relevant competent authority a duly substantiated report in accordance with Article 30f. If the data submitted are duly substantiated, the competent authority shall notify the Commission thereof by 30 June of the relevant year. The quantity of allowances to be issued under paragraph 1 of this Article shall be adjusted taking into account the duly substantiated reports submitted by the regulated entities.

Article 30d

Auctioning of allowances for the activity referred to in Annex III

1. From 2027, allowances covered by this Chapter shall be auctioned, unless they are placed in the market stability reserve established by Decision (EU) 2015/1814. The allowances covered by this Chapter shall be auctioned separately from the allowances covered by Chapters II and III of this Directive.

2. The auctioning of the allowances under this Chapter shall start in 2027 with an amount corresponding to 130 % of the auction volumes for 2027 established on the basis of the Union-wide quantity of allowances for that year and the respective auction shares and volumes pursuant to paragraphs 3 to 6 of this Article. The additional 30 % to be auctioned shall only be used for surrendering allowances pursuant to Article 30e(2) and may be auctioned until 31 May 2028. The additional 30% shall be deducted from the auction volumes for the period from 2029 to 2031. The conditions for the auctions provided for in this paragraph shall be set in accordance with paragraph 7 of this Article and Article 10(4).

In 2027, 600 million allowances covered by this Chapter shall be created as holdings in the market stability reserve pursuant to Article 1a(3) of Decision (EU) 2015/1814.

3. 150 million allowances issued under this Chapter shall be auctioned and all revenues from those auctions made available for the Social Climate Fund established by Regulation (EU) 2023/955 until 2032.

4. From the remaining amount of allowances and in order to generate, together with the revenue from the allowances referred to in paragraph 3 of this Article and Article 10a(8b) of this Directive, a maximum amount of EUR 65 000 000 000, the Commission shall ensure that an additional amount of allowances covered by this Chapter is auctioned and the revenues from those auctions are made available for the Social Climate Fund established by Regulation (EU) 2023/955 until 2032.

The Commission shall ensure that the allowances destined for the Social Climate Fund referred to in paragraph 3 of this Article and in this paragraph are auctioned in accordance with the principles and modalities referred to in Article 10(4) and the delegated acts adopted pursuant to that Article.

The revenues from the auctioning of the allowances referred to in paragraph 3 of this Article and in this paragraph shall constitute external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046, and shall be used in accordance with the rules applicable to the Social Climate Fund.

The annual amount allocated to the Social Climate Fund in accordance with Article 10a(8b), paragraph 3 of this Article and this paragraph shall not exceed:

(a) for 2026, EUR 4 000 000 000;

(b) for 2027, EUR 10 900 000 000;

(c) for 2028, EUR 10 500 000 000;

(d) for 2029, EUR 10 300 000 000;

(e) for 2030, EUR 10 100 000 000;

(f) for 2031, EUR 9 800 000 000;

(g) for 2032, EUR 9 400 000 000.

Where the emissions trading system established in accordance with this Chapter is postponed until 2028 pursuant to Article 30k, the maximum amount to be made available to the Social Climate Fund in accordance with the first subparagraph of this paragraph shall be EUR 54 600 000 000. In such a case, the annual amounts allocated to the Social Climate Fund shall not exceed cumulatively for the years 2026 and 2027, EUR 4 000 000 000, and for the period from 1 January 2028 until 31 December 2032, the relevant annual amount shall not exceed:

(a) for 2028, EUR 11 400 000 000;

(b) for 2029, EUR 10 300 000 000;

(c) for 2030, EUR 10 100 000 000;

(d) for 2031, EUR 9 800 000 000;

(e) for 2032, EUR 9 000 000 000.

Where revenue generated from the auctioning referred to in paragraph 5 of this Article is established as an own resource in accordance with Article 311, third paragraph, TFEU, Article 10a(8b) of this Directive, paragraph 3 of this Article and this paragraph shall not be applicable.

5. The total quantity of allowances covered by this Chapter, after deducting the quantities set out in paragraphs 3 and 4 of this Article, shall be auctioned by the Member States and distributed amongst them in shares that are identical to the share of reference emissions under Article 4(2) of Regulation (EU) 2018/842 for the categories of emission sources referred to in the second paragraph, points (b), (c) and (d), of Annex III to this Directive for the average of the period from 2016 to 2018 of the Member State concerned, as comprehensively reviewed pursuant to Article 4(3) of that Regulation.

6. Member States shall determine the use of revenues generated from the auctioning of allowances referred to in paragraph 5 of this Article, except for the revenues constituting external assigned revenue in accordance with paragraph 4 of this Article or the revenues established as own resources in accordance with Article 311, third paragraph, TFEU and entered in the Union budget. Member States shall use their revenues or the equivalent in financial value of those revenues for one or more of the purposes referred to in Article 10(3) of this Directive, giving priority to activities that can contribute to addressing social aspects of the emissions trading under this Chapter, or for one or more of the following:

(a) measures intended to contribute to the decarbonisation of heating and cooling of buildings or to the reduction of the energy needs of buildings, including the integration of renewable energies and related measures in accordance with Article 7(11) and Articles 12 and 20 of Directive 2012/27/EU, as well as measures to provide financial support for low-income households in worst-performing buildings;

(b) measures intended to accelerate the uptake of zero-emission vehicles or to provide financial support for the deployment of fully interoperable refuelling and recharging infrastructure for zero-emission vehicles, or measures to encourage a shift to public transport and improve multimodality, or to provide financial support in order to address social aspects concerning low- and middle-income transport users;

(c) to finance their Social Climate Plan in accordance with Article 15 of Regulation (EU) 2023/955;

(d) to provide financial compensation to the final consumers of fuels in cases where it has not been possible to avoid double counting of emissions or where allowances have been surrendered for emissions not covered by this Chapter as referred to in Article 30f(5).

Member States shall be deemed to have fulfilled the provisions of this paragraph if they have in place and implement fiscal or financial support policies or regulatory policies which leverage financial support, established for the purposes set out in the first subparagraph of this paragraph, and which have a value equivalent to the revenues referred to in that subparagraph generated from the auctioning of allowances referred to in this Chapter.

Member States shall inform the Commission as to the use of revenues and the actions taken pursuant to this paragraph by including this information in their reports submitted under Regulation (EU) 2018/1999.

7. Article 10(4) and (5) shall apply to the allowances issued under this Chapter.

Article 30e

Transfer, surrender and cancellation of allowances

1. Article 12 shall apply to the emissions, regulated entities and allowances covered by this Chapter, with the exception of paragraphs 3 and 3a, paragraph 4, second and third sentence, and paragraph 5 of that Article. For that purpose:

(a) any reference to emissions shall be read as if it were a reference to the emissions covered by this Chapter;

(b) any reference to operators of installations shall be read as if it were a reference to the regulated entities covered by this Chapter;

(c) any reference to allowances shall be read as if it were a reference to the allowances covered by this Chapter.

2. From 1 January 2028, Member States shall ensure that, by 31 May each year, the regulated entity surrenders an amount of allowances covered by this Chapter that is equal to the regulated entity's total emissions, corresponding to the quantity of fuels released for consumption pursuant to Annex III, during the preceding calendar year as verified in accordance with Articles 15 and 30f, and that those allowances are subsequently cancelled.

3. Until 31 December 2030, by way of derogation from paragraphs 1 and 2 of this Article, where a regulated entity established in a given Member State is subject to a national carbon tax in force for the years 2027 to 2030, covering the activity referred to in Annex III, the competent authority of the Member State concerned may exempt that regulated entity from the obligation to surrender allowances under paragraph 2 of this Article for a given reference year, provided that:

(a) the Member State concerned notifies the Commission of that national carbon tax by 31 December 2023, and the national law setting the tax rates applicable for the years 2027 to 2030 has, by that date, entered into force; the Member State concerned shall notify the Commission of any subsequent change to the national carbon tax;

(b) for the reference year, the national carbon tax of the Member State concerned effectively paid by that regulated entity is higher than the average auction clearing price of the emissions trading system established under this Chapter;

(c) the regulated entity fully complies with the obligations under Article 30b on greenhouse emissions permits and Article 30f on monitoring, reporting and verification of its emissions;

(d) the Member State concerned notifies the Commission of the application of any such exemption and the corresponding amount of allowances to be cancelled in accordance with point (g) of this subparagraph and the delegated acts adopted pursuant to Article 10(4), by 31 May of the year after the reference year;

(e) the Commission does not raise an objection to the application of the derogation on the ground that the measure notified is not in conformity with the conditions set out in this paragraph, within three months of a notification under point (a) of this subparagraph or within one month of the notification for the relevant year under point (d) of this subparagraph;

(f) the Member State concerned does not auction the amount of allowances referred to in Article 30d(5) for a particular reference year until the amount of allowances to be cancelled under this paragraph is determined in accordance with point (g) of this subparagraph; the Member State concerned shall not auction any of the additional amount of allowances pursuant to Article 30d(2), first subparagraph;

(g) the Member State concerned cancels an amount of allowances from the total quantity of allowances to be auctioned by it, referred to in Article 30d(5), for the reference year, which is equal to the verified emissions of that regulated entity under this Chapter for the reference year; where the amount of allowances that remains to be auctioned in the reference year following application of point (f) of this subparagraph is below the amount of allowances to be cancelled under this paragraph, the Member State concerned shall ensure that it cancels the amount of allowances corresponding to the difference by the end of the year after the reference year; and

(h) the Member State concerned commits, at the time of the first notification under point (a) of this subparagraph, to using for one or more of the measures listed or referred to in Article 30d(6), first subparagraph, an amount equivalent to the revenues to which Article 30d(6) would have applied in the absence of this derogation; Article 30d(6), second and third subparagraphs, shall apply and the Commission shall ensure that the information received pursuant thereto is in conformity with the commitment made under this point.

The amount of allowances to be cancelled under the first subparagraph, point (g), of this paragraph shall not affect the external assigned revenue established pursuant to Article 30d(4) of this Directive or, where it has been established pursuant to Article 311, third paragraph, TFEU, the own resources of the Union budget pursuant to Council Decision (EU, Euratom) 2020/2053 (**) from the revenues generated from auctioning of allowances in accordance with Article 30d of this Directive.

4. Hospitals which are not covered by Chapter III may be provided with financial compensation for the cost passed on to them due to the surrender of allowances under this Chapter. For that purpose, the provisions of this Chapter applicable to cases of double counting shall apply *mutatis mutandis*.

Article 30f

Monitoring, reporting, verification of emissions and accreditation

1. Articles 14 and 15 shall apply to the emissions, regulated entities and allowances covered by this Chapter. For that purpose:

(a) any reference to emissions shall be read as if it were a reference to the emissions covered by this Chapter;

(b) any reference to an activity listed in Annex I shall be read as if it were a reference to the activity referred to in Annex III;

(c) any reference to operators shall be read as if it were a reference to the regulated entities covered by this Chapter;

(d) any reference to allowances shall be read as if it were a reference to the allowances covered by this Chapter;

(e) the reference to the date in Article 15 shall be read as if it were a reference to 30 April.

2. Member States shall ensure that each regulated entity monitors for each calendar year from 2025 the emissions corresponding to the quantities of fuels released for consumption pursuant to Annex III. They shall also ensure that each regulated entity reports those emissions to the competent authority in the following year, starting in 2026, in accordance with the implementing acts referred to in Article 14(1).

3. From 1 January 2028, Member States shall ensure that, by 30 April each year until 2030, each regulated entity reports the average share of costs related to the surrender of allowances under this Chapter which it passed on to consumers for the preceding year. The Commission shall adopt implementing acts concerning the requirements and templates for those reports. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2). The Commission shall assess the submitted reports and annually report its findings to the European Parliament and to the Council. Where the Commission finds that improper practices exist with regard to the passing on of carbon costs, the report may be accompanied, where appropriate, by legislative proposals aimed at addressing such improper practices.

4. Member States shall ensure that each regulated entity holding a permit in accordance with Article 30b on 1 January 2025 reports its historical emissions for the year 2024 by 30 April 2025.

5. Member States shall ensure that the regulated entities are able to identify and document reliably and accurately, per type of fuel, the precise quantities of fuel released for consumption which are used for combustion in the sectors referred to in Annex III, and the final use of the fuels released for consumption by the regulated entities. The Member States shall take appropriate measures to limit the risk of double counting of emissions covered under this Chapter and the emissions under Chapters II and III, as well as the risk of allowances being surrendered for emissions not covered by this Chapter.

The Commission shall adopt implementing acts concerning the detailed rules for avoiding double counting and allowances being surrendered for emissions not covered by this Chapter, as well as for providing financial compensation to the final consumers of the fuels in cases where such double counting or surrender cannot be avoided. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2). The calculation of the financial compensation for the final consumers of the fuels shall be based on the average price of allowances in the auctions carried out in accordance with the delegated acts adopted pursuant to Article 10(4) in the relevant reporting year.

6. The principles for monitoring and reporting of emissions covered by this Chapter are set out in Part C of Annex IV.

7. The criteria for the verification of emissions covered by this Chapter are set out in Part C of Annex V.

8. Member States may allow simplified monitoring, reporting and verification measures for regulated entities whose annual emissions corresponding to the quantities of fuels released for consumption are less than 1 000 tonnes of CO_2 equivalent, in accordance with the implementing acts referred to in Article 14(1).

Article 30g

Administration

Articles 13 and 15a, Article 16(1), (2), (3), (4) and (12), and Articles 17, 18, 19, 20, 21, 22, 22a, 23 and 29 shall apply to the emissions, regulated entities and allowances covered by this Chapter. For that purpose:

(a) any reference to emissions shall be read as if it were a reference to emissions covered by this Chapter;

(b) any reference to operators shall be read as if it were a reference to regulated entities covered by this Chapter;

(c) any reference to allowances shall be read as if it were a reference to the allowances covered by this Chapter.

Article 30h

Measures in the event of an excessive price increase

1. Where, for more than three consecutive months, the average price of allowances in the auctions carried out in accordance with the delegated acts adopted pursuant to Article 10(4) of this Directive is more than twice the average price of allowances during the six preceding consecutive months in the auctions for the allowances covered by this Chapter, 50 million allowances covered by this Chapter shall be released from the market stability reserve in accordance with Article 1a(7) of Decision (EU) 2015/1814.

For the years 2027 and 2028, the condition referred to in the first subparagraph shall be met where, for more than three consecutive months, the average price of allowances is more than 1,5 times the average price of allowances during the reference period of the six preceding consecutive months.

2. Where the average price of allowances referred to in paragraph 1 of this Article exceeds a price of EUR 45 for a period of two consecutive months, 20 million allowances covered by this Chapter shall be released from the market stability reserve in accordance with Article 1a(7) of Decision (EU) 2015/1814. Indexation based on the European index of consumer prices for 2020 shall apply. Allowances shall be released through the mechanism provided for in this paragraph up to 31 December 2029.

3. Where the average price of allowances referred to in paragraph 1 of this Article is more than three times the average price of allowances during the six preceding consecutive months, 150 million allowances covered by this Chapter shall be released from the market stability reserve in accordance with Article 1a(7) of Decision (EU) 2015/1814.

4. Where the condition referred to in paragraph 2 has been met on the same day as the condition referred to in paragraph 1 or 3, additional allowances shall be released only pursuant to paragraph 1 or 3.

5. Before 31 December 2029, the Commission shall present a report to the European Parliament and to the Council in which it assesses whether the mechanism referred to in paragraph 2 has been effective and whether it should be continued. The Commission shall, where appropriate, accompany that report with a legislative proposal to the European Parliament and to the Council to amend this Directive to adjust that mechanism.

6. Where one or more of the conditions referred to in paragraph 1, 2 or 3 have been met and resulted in a release of allowances, additional allowances shall not be released pursuant to this Article earlier than 12 months thereafter.

7. Where, within the second half of the period of 12 months referred to in paragraph 6 of this Article, the condition referred to in paragraph 2 of this Article has been met again, the Commission shall, assisted by the Committee established by Article 44 of Regulation (EU) 2018/1999, assess the effectiveness of the measure and may by means of an implementing act decide that paragraph 6 of this Article is not to apply. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 22a(2) of this Directive.

8. Where one or more of the conditions referred to in paragraph 1, 2 or 3 have been met and paragraph 6 is not applicable, the Commission shall promptly publish a notice in the *Official Journal of the European Union* concerning the date on which that or those conditions were met.

9. Member States that are subject to the obligation to provide a corrective action plan in accordance with Article 8 of Regulation (EU) 2018/842 shall take due account of the effects of a release of additional allowances pursuant to paragraph 2 of this Article during the previous two years when considering additional actions to be implemented as referred to in Article 8(1), first subparagraph, point (c), of that Regulation in order to meet their obligations under that Regulation.

Article 30i

Review of this Chapter

By 1 January 2028, the Commission shall report to the European Parliament and to the Council on the implementation of the provisions of this Chapter with regard to their effectiveness, administration and practical application, including on the application of the rules under Decision (EU) 2015/1814. Where appropriate, the Commission shall accompany that report with a legislative proposal to amend this Chapter. By 31 October 2031, the Commission shall assess the feasibility of integrating the sectors covered by Annex III to this Directive into the EU ETS covering the sectors listed in Annex I to this Directive.

Article 30j

Procedures for unilateral extension of the activity referred to in Annex III to other sectors not subject to Chapters II and III

1. From 2027, Member States may extend the activity referred to in Annex III to sectors that are not listed in that Annex and thereby apply emissions trading in accordance with this Chapter in such sectors, taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the emissions trading system established pursuant to this Chapter and the reliability of the planned monitoring and reporting system, provided that the extension of the activity referred to in that Annex is approved by the Commission.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the approval of an extension as referred to in the first subparagraph of this paragraph, authorisation for the issue of additional allowances and authorisation of other Member States to extend the activity referred to in Annex III. The Commission may also, when adopting such delegated acts, supplement the extension with further rules governing measures to address possible instances of double counting, including for the issue of additional allowances to compensate for allowances surrendered for use of fuels in activities listed in Annex I. Any financial measures by Member States in favour of companies in sectors and subsectors which are exposed to a genuine risk of carbon leakage, due to significant indirect costs that are incurred from greenhouse gas emission costs passed on in fuel prices due to the unilateral extension, shall be in accordance with State aid rules, and shall not cause undue distortions of competition in the internal market.

2. Additional allowances issued pursuant to an authorisation under this Article shall be auctioned in line with the requirements laid down in Article 30d. Notwithstanding Article 30d(1) to (6), Member States having unilaterally extended the activity referred to in Annex III in accordance with this Article shall determine the use of revenues generated from the auctioning of those additional allowances.

Article 30k

Postponement of emissions trading for buildings, road transport and additional sectors until 2028 in the event of exceptionally high energy prices

1. By 15 July 2026, the Commission shall publish a notice in the *Official Journal of the European Union* concerning whether one or both of the following conditions have been met:

(a) the average TTF gas price for the six calendar months ending 30 June 2026 was higher than the average TTF gas price in February and March 2022;

(b) the average Brent crude oil price for the six calendar months ending 30 June 2026 was more than twice the average Brent crude oil price during the five preceding years; the five-year reference period shall be the five-year period that ends before the first month of the period of six calendar months.

2. Where one or both of the conditions referred to in paragraph 1 are met, the following rules shall apply:

(a) by way of derogation from Article 30c(1), the first year for which the Union-wide quantity of allowances is established shall be 2028 and, by way of derogation from Article 30c(3), the first year for which the Union-wide quantity of allowances is adjusted shall be 2029;

(b) by way of derogation from Article 30d(1) and (2), the start of auctioning of allowances under this Chapter shall be postponed to 2028;

(c) by way of derogation from Article 30d(2), the additional amount of allowances for the first year of auctions shall be deducted from the auction volumes for the period from 2030 to 2032 and the initial holdings in the market stability reserve shall be created in 2028;

(d) by way of derogation from Article 30e(2), the deadline for initial surrendering of allowances shall be put back to 31 May 2029 for total emissions in the year 2028;

(e) by way of derogation from Article 30i, the deadline for the Commission to report to the European Parliament and to the Council shall be put back to 1 January 2029.

(*) 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).

(**) Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).';

(30) the following Chapter is inserted:

'Chapter IVb

Scientific Advice and Visibility of Funding

Article 30l

Scientific advice

The European Scientific Advisory Board on Climate Change (the 'Advisory Board') established under Article 10a of Regulation (EC) No 401/2009 of the European Parliament and of the Council (*) may, on its own initiative, provide scientific advice and issue reports regarding this Directive. The Commission shall take into account the relevant advice and reports of the Advisory Board, in particular as regards:

(a) the need for additional Union policies and measures to ensure compliance with the objectives and targets referred to in Article 30(3) of this Directive;

(b) the need for additional Union policies and measures in view of agreements on global measures within ICAO to reduce the climate impact of aviation, and of the ambition and environmental integrity of the global market-based measure of the IMO referred to in Article 3gg of this Directive.

Article 30m

Information, communication and publicity

1. The Commission shall ensure the visibility of funding from EU ETS auctioning revenues referred to in Article 10a(8) by:

(a) ensuring that the beneficiaries of such funding acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the projects and their results, by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public; and

(b) ensuring that the recipients of such funding use an appropriate label that reads '(co-)funded by the EU Emissions Trading System (the Innovation Fund)', as well as the emblem of the Union and the amount of funding; where the use of that label is not feasible, the Innovation Fund shall be mentioned in all communication activities, including on notice boards at strategic places visible to the public.

The Commission shall in the delegated act referred to in Article 10a(8) set out the necessary requirements to ensure the visibility of funding from the Innovation Fund, including a requirement to mention that Fund.

2. Member States shall ensure the visibility of funding from EU ETS auctioning revenues referred to in Article 10d corresponding to what is referred to in paragraph 1, first subparagraph, points (a) and (b), of this Article, including through a requirement to mention the Modernisation Fund.

3. Taking into account national circumstances, the Member States shall endeavour to ensure the visibility of the source of the funding of actions or projects funded from the EU ETS auctioning revenues of which they determine the use in accordance with Article 3d(4), Article 10(3) and Article 30d(6).

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

(31) Annexes I, IIb, IV and V to Directive 2003/87/EC are amended in accordance with Annex I to this Directive, and Annexes III and IIIa are inserted in Directive 2003/87/EC as set out in Annex I to this Directive.

Article 2

Amendments to Decision (EU) 2015/1814

Decision (EU) 2015/1814 is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. The Commission shall publish the total number of allowances in circulation each year by 1 June of the subsequent year. The total number of allowances in circulation in a given year shall be the cumulative number of allowances issued in respect of installations and shipping companies and not placed in the reserve in the period since 1 January 2008, including the number of allowances that were issued pursuant to Article 13(2) of Directive 2003/87/EC, in the version in force on 18 March 2018, in that period and entitlements to use international credits exercised by installations under the EU ETS, up to 31 December of that given year, minus the cumulative tonnes of verified emissions from installations and shipping companies under the EU ETS between 1 January 2008 and 31 December of that same given year, and any allowances cancelled in accordance with Article 12(4) of Directive 2003/87/EC. No account shall be taken of emissions during the three-year period starting in 2005 and ending in 2007 and allowances issued in respect of those emissions. The first publication shall take place by 15 May 2017.';

(b) the following paragraph is inserted:

'4a. As from 2024, the calculation of the total number of allowances in circulation in any given year shall include the cumulative number of allowances issued in respect of aviation and the cumulative tonnes of verified emissions from aviation under the EU ETS, excluding emissions from flights on routes covered by offsetting calculated pursuant to Article 12(6) of Directive 2003/87/EC, between 1 January 2024 and 31 December of that same given year.

The allowances cancelled pursuant to Article 3gb of Directive 2003/87/EC shall be considered as issued for the purposes of the calculation of the total number of allowances in circulation.';

(c) paragraphs 5 and 5a are replaced by the following:

'5. In any given year, if the total number of allowances in circulation is between 833 million and 1 096 million, a number of allowances equal to the difference between the total number of allowances in circulation, as set out in the most recent publication as referred to in paragraph 4 of this Article, and 833 million shall be deducted from the quantity of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and shall be placed in the reserve over a period of 12 months beginning on 1 September of that year. If the total number of allowances in circulation is above 1 096 million allowances, the number of allowances to be deducted from the quantity of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and to be placed in the reserve over a period of 12 months beginning on 1 September of that year shall be equal to 12 % of the total number of allowances in circulation. By way of derogation from the second sentence of this subparagraph, until 31 December 2030, the percentage referred to in that sentence shall be doubled.

Without prejudice to the total number of allowances to be deducted pursuant to this paragraph, until 31 December 2030, allowances referred to in Article 10(2), first subparagraph, point (b), of Directive 2003/87/EC shall not be taken into account when determining Member States' shares contributing to that total amount.

5a. Unless otherwise decided in the first review carried out in accordance with Article 3, from 2023 allowances held in the reserve above 400 million allowances shall no longer be valid.';

(d) paragraph 7 replaced by the following:

'7. In any given year, if paragraph 6 of this Article is not applicable and the condition in Article 29a(1) of Directive 2003/87/EC has been met, 75 million allowances shall be released from the reserve and added to the quantity of allowances to be auctioned by the Member States under Article 10(2) of that Directive. Where fewer than 75 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph. Where the condition in Article 29a(1) of that Directive is met, the volumes to be released from the reserve in

accordance with that Article shall be evenly distributed during a period of three months, starting no later than two months from the date when the condition in Article 29a(1) of that Directive is met as notified by the Commission in accordance with the fourth subparagraph thereof.';

(2) the following Article is inserted:

'*Article 1a*

Operation of the market stability reserve for the buildings, road transport and additional sectors

1. Allowances covered by Chapter IVa of Directive 2003/87/EC shall be placed in and released from a separate section of the reserve established pursuant to Article 1 of this Decision, in accordance with the rules set out in this Article.

2. The placing of allowances in the reserve under this Article shall operate from 1 September 2028. The allowances covered by Chapter IVa of Directive 2003/87/EC shall be placed in, held in, and released from the reserve separately from the allowances covered by Article 1 of this Decision.

3. In 2027, the section referred to in paragraph 1 of this Article shall be created in accordance with Article 30d(2), second subparagraph, of Directive 2003/87/EC. From 1 January 2031, the allowances referred to in that subparagraph that have not been released from the reserve shall no longer be valid.

4. The Commission shall publish the total number of allowances in circulation covered by Chapter IVa of Directive 2003/87/EC each year, by 1 June of the subsequent year, separately from the number of allowances in circulation under Article 1(4) of this Decision. The total number of allowances in circulation under this Article in a given year shall be the cumulative number of allowances covered by that Chapter issued in the period since 1 January 2027, minus the cumulative tonnes of verified emissions covered by that Chapter for the period between 1 January 2027 and 31 December of that same given year and any allowances covered by that Chapter cancelled in accordance with Article 12(4) of Directive 2003/87/EC. The first publication shall take place by 1 June 2028.

5. In any given year, if the total number of allowances in circulation, as set out in the most recent publication as referred to in paragraph 4 of this Article, is above 440 million allowances, 100 million allowances shall be deducted from the quantity of allowances covered by Chapter IVa of Directive 2003/87/EC to be auctioned by the Member States under Article 30d of that Directive and shall be placed in the reserve over a period of 12 months beginning on 1 September of that year.

6. In any given year, if the total number of allowances in circulation is lower than 210 million, 100 million allowances covered by Chapter IVa of Directive 2003/87/EC shall be released from the reserve and added to the quantity of allowances covered by that Chapter to be auctioned by the Member States under Article 30d of that Directive. Where fewer than 100 million allowances are in the reserve, all allowances in the reserve shall be released under this paragraph.

7. The volumes to be released from the reserve in accordance with Article 30h of Directive 2003/87/EC shall be added to the quantity of allowances covered by Chapter IVa of that Directive to be auctioned by the Member States under Article 30d of that Directive. The volumes to be released from the reserve shall be evenly distributed over a period of three months, starting no later than two months after the date on which the conditions were met according to the publication in that regard in the *Official Journal of the European Union* pursuant to Article 30h(8) of Directive 2003/87/EC.

8. Article 1(8) and Article 3 of this Decision shall apply to the allowances covered by Chapter IVa of Directive 2003/87/EC.

9. By way of derogation from paragraphs 2, 3 and 4 of this Article, where one or both of the conditions referred to in Article 30k(1) of Directive 2003/87/EC are met, the placing of allowances in the reserve referred to in paragraph 2 of this Article shall operate from 1 September 2029 and the dates referred to in paragraphs 3 and 4 of this Article shall be put back by one year.';

(3) Article 3 is replaced by the following:

'*Article 3*

Review

The Commission shall monitor the functioning of the reserve in the context of the report provided for in Article 10(5) of Directive 2003/87/EC. That report should consider relevant effects on competitiveness, in particular in the industrial sector, including in relation to GDP, employment and investment indicators. Within three years of the start of the operation of the reserve and at five-year intervals thereafter, the Commission shall, on the basis of an analysis of the orderly functioning of the European carbon market, review the reserve and submit a legislative proposal, where appropriate, to the European Parliament and to the Council. Each review shall pay particular attention to the percentage figure for the determination of the number of allowances to be placed in the reserve pursuant to Article 1(5) of this Decision, the numerical value of the threshold for the total number of allowances in circulation, including with a view to a potential adjustment of that threshold in line with the linear factor referred to in Article 9 of Directive 2003/87/EC, as well as the number of allowances to be released from the reserve pursuant to Article 1(6) or (7) of this Decision. In its review, the Commission shall also look into the impact of the reserve on growth, jobs, and the Union's industrial competitiveness and on the risk of carbon leakage.'.

Article 3

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 1 of this Directive by 31 December 2023. They shall apply those measures from 1 January 2024.

However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the following articles by 30 June 2024:

(a) Article 1, point (3), points (ae) to (ai), of this Directive;

(b) Article 1, point (29), of this Directive with the exception of Article 30f(4) of Directive 2003/87/EC as inserted by that point; and

(c) Article 1, point (31), of this Directive regarding Annexes III and IIIa to Directive 2003/87/EC as inserted by that point.

They shall immediately inform the Commission of the measures adopted in accordance with the first and second subparagraphs.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 4

Transitional provisions

When complying with their obligation set out in Article 3(1) of this Directive, Member States shall ensure that their national legislation transposing Article 3, point (u), Article 10a(3) and (4), Article 10c(7) and Annex I, points 1 and 3, of Directive 2003/87/EC, in its version applicable on 4 June 2023, continue to apply until 31 December 2025. By way of derogation from Article 3(1), first subparagraph, last sentence, they shall apply their national measures transposing amendments to those provisions from 1 January 2026.

Article 5

Entry into force and application

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

Article 2 shall apply from 1 January 2024.

Article 6

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 10 May 2023.

For the European Parliament	*For the Council*
The President	*The President*
R. METSOLA	J. ROSWALL

ANNEX

(1) Annex I to Directive 2003/87/EC is amended as follows:

(a) point 1 is replaced by the following:

'1. Installations or parts of installations used for research, development and testing of new products and processes are not covered by this Directive. Installations where during the preceding relevant five-year period referred to in Article 11(1), second subparagraph, emissions from the combustion of biomass that complies with the criteria set out pursuant to Article 14 contribute on average to more than 95 % of the total average greenhouse gas emissions are not covered by this Directive.';

(b) point 3 is replaced by the following:

'3. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the EU ETS, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, shall be added together. Those units may include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW shall not be taken into account for the purposes of this calculation.';

(c) the table is amended as follows:

(i) the first row is replaced by the following:

'Combustion of fuels in installations with a total rated thermal input exceeding 20 MW (except in installations for the incineration of hazardous or municipal waste) From 1 January 2024, combustion of fuels in installations for the incineration of municipal waste with a total rated thermal input exceeding 20 MW, for the purposes of Articles 14 and 15.	Carbon dioxide'

(ii) the second row is replaced by the following:

'Refining of oil, where combustion units with a total rated thermal input exceeding 20 MW are operated	Carbon dioxide'

(iii) the fifth row is replaced by the following:

'Production of iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour	Carbon dioxide'

(iv) the seventh row is replaced by the following:

'Production of primary aluminium or alumina	Carbon dioxide and perfluorocarbons'

(v) the fifteenth row is replaced by the following:

'Drying or calcination of gypsum or production of plaster boards and other gypsum products, with a production capacity of calcined gypsum or dried secondary gypsum exceeding a total of 20 tonnes per day	Carbon dioxide'

(vi) the eighteenth row is replaced by the following:

'Production of carbon black involving the carbonisation of organic substances such as oils, tars, cracker and distillation residues with a production capacity exceeding 50 tonnes per day	Carbon dioxide'

(vii) the twenty-fourth row is replaced by the following:

'Production of hydrogen (H_2) and synthesis gas with a production capacity exceeding 5 tonnes per day	Carbon dioxide'

(viii) the twenty-seventh row is replaced by the following:

'Transport of greenhouse gases for geological storage in a storage site permitted under Directive 2009/31/EC, with the exclusion of those emissions covered by another activity under this Directive	Carbon dioxide'

(ix) the following row is added after the last new row, with a separation line in between:

'Maritime transport Maritime transport activities covered by Regulation (EU) 2015/757 with the exception of the maritime transport activities covered by Article 2(1a) and, until 31 December 2026, Article 2(1b) of that Regulation	Carbon dioxide From 1 January 2026, methane and nitrous oxide'

(2) Annex IIb to Directive 2003/87/EC is replaced by the following:

'*ANNEX IIb*

PART A

DISTRIBUTION OF FUNDS FROM THE MODERNISATION FUND CORRESPONDING TO ARTICLE 10(1), THIRD SUBPARAGRAPH

	Share
Bulgaria	5,84 %
Czechia	15,59 %
Estonia	2,78 %
Croatia	3,14 %
Latvia	1,44 %
Lithuania	2,57 %
Hungary	7,12 %
Poland	43,41 %
Romania	11,98 %
Slovakia	6,13 %

PART B

DISTRIBUTION OF FUNDS FROM THE MODERNISATION FUND CORRESPONDING TO ARTICLE 10(1), FOURTH SUBPARAGRAPH

	Share
Bulgaria	4,9 %
Czechia	12,6 %
Estonia	2,1 %
Greece	10,1 %
Croatia	2,3 %
Latvia	1,0 %
Lithuania	1,9 %
Hungary	5,8 %
Poland	34,2 %
Portugal	8,6 %
Romania	9,7 %
Slovakia	4,8 %
Slovenia	2,0 %';

(3) The following Annexes are inserted as Annexes III and IIIa to Directive 2003/87/EC:

'ANNEX III

ACTIVITY COVERED BY CHAPTER IVa

Activity	Greenhouse gases
Release for consumption of fuels which are used for combustion in the buildings, road transport and additional sectors. This activity shall not include: (a) the release for consumption of fuels used in the activities listed in Annex I, except if used for combustion in the activities of transport of greenhouse gases for geological storage as set out in the table, row twenty seven, of that Annex or if used for combustion in installations excluded under Article 27a; (b) the release for consumption of fuels for which the emission factor is zero; (c) the release for consumption of hazardous or municipal waste used as fuel. The buildings and road transport sectors shall correspond to the following sources of emissions, defined in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, with the necessary modifications to those definitions as follows: (a) Combined Heat and Power Generation (CHP) (source category code 1A1a ii) and Heat Plants (source category code 1A1a iii), insofar as they produce heat for categories under points (c) and (d) of this paragraph, either directly or through district heating networks;	Carbon dioxide
(b) Road Transportation (source category code 1A3b), excluding the use of agricultural vehicles on paved roads; (c) Commercial / Institutional (source category code 1A4a); (d) Residential (source category code 1A4b).	

Activity	Greenhouse gases
Additional sectors shall correspond to the following sources of emissions, defined in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories: (a) Energy Industries (source category code 1A1), excluding the categories defined under the second paragraph, point (a), of this Annex; (b) Manufacturing Industries and Construction (source category code 1A2).	

ANNEX IIIa

ADJUSTMENT OF LINEAR REDUCTION FACTOR IN ACCORDANCE WITH ARTICLE 30c(2)

1. If the average emissions reported under Chapter IVa for the years 2024 to 2026 are more than 2 % higher compared to the value of the 2025 quantity defined in accordance with Article 30c(1), and if those differences are not due to the difference of less than 5 % between the emissions reported under Chapter IVa and the inventory data of 2025 Union greenhouse gas emissions from UNFCCC source categories for the sectors covered under Chapter IVa, the linear reduction factor shall be calculated by adjusting the linear reduction factor referred to in Article 30c(1).

2. The adjusted linear reduction factor in accordance with point 1 shall be determined as follows:

$LRF_{adj} = 100\%* [MRV_{[2024-2026]} - (ESR_{[2024]} - 6* LRF[_{2024}]* ESR_{[2024]})]/ (5* MRV_{[2024-2026]})$, where,

LRF_{adj} is the adjusted linear reduction factor;

$MRV_{[2024-2026]}$ is the average of verified emissions under Chapter IVa for the years 2024 to 2026;

$ESR_{[2024]}$ is the value of 2024 emissions defined in accordance with Article 30c(1) for the sectors covered under Chapter IVa;

$LRF[_{2024}]$ is the linear reduction factor referred to in Article 30c(1).';

(4) Annex IV to Directive 2003/87/EC is amended as follows:

(a) in Part A, the section 'Calculation' is amended as follows:

(i) in the third paragraph, the last sentence 'The emission factor for biomass shall be zero.' is replaced by the following:

'The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission-saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, as set out in the implementing acts referred to in Article 14 of this Directive, shall be zero.';

(ii) the fifth paragraph is replaced by the following:

'Default oxidation factors developed pursuant to Directive 2010/75/EU shall be used, unless the operator can demonstrate that activity-specific factors are more accurate.';

(b) in Part B, section 'Monitoring of carbon dioxide emissions', fourth paragraph, the last sentence 'The emission factor for biomass shall be zero.' is replaced by the following:

'The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission-saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, as set out in the implementing acts referred to in Article 14 of this Directive, shall be zero.';

(c) the following part is added:

'PART C

Monitoring and reporting of emissions corresponding to the activity referred to in Annex III

Monitoring of emissions

Emissions shall be monitored by calculation.

Calculation

Emissions shall be calculated using the following formula:

Fuel released for consumption × emission factor

Fuel released for consumption shall include the quantity of fuel released for consumption by the regulated entity.

Default IPCC emission factors, taken from the 2006 IPCC Inventory Guidelines or subsequent updates of those Guidelines, shall be used unless fuel-specific emission factors identified by independent accredited laboratories using accepted analytical methods are more accurate.

A separate calculation shall be made for each regulated entity, and for each fuel.

Reporting of emissions

Each regulated entity shall include the following information in its report:

A. Data identifying the regulated entity, including:

— name of the regulated entity;

— its address, including postcode and country;

— type of the fuels it releases for consumption and its activities through which it releases the fuels for consumption, including the technology used;

— address, telephone, fax and email details for a contact person; and

— name of the owner of the regulated entity, and of any parent company.

B. For each type of fuel released for consumption and which is used for combustion in the sectors referred to in Annex III, for which emissions are calculated:

— quantity of fuel released for consumption;

— emission factors;

— total emissions;

— end use(s) of the fuel released for consumption; and

— uncertainty.

Member States shall take measures to coordinate reporting requirements with any existing reporting requirements in order to minimise the reporting burden on businesses.';

(5) In Annex V to Directive 2003/87/EC, the following part is added:

'PART C

Verification of emissions corresponding to the activity referred to in Annex III

General Principles

1. Emissions corresponding to the activity referred to in Annex III shall be subject to verification.

2. The verification process shall include consideration of the report pursuant to Article 14(3) and of monitoring during the preceding year. It shall address the reliability, credibility and accuracy of monitoring systems and the reported data and information relating to emissions, and in particular:

(a) the reported fuels released for consumption and related calculations;

(b) the choice and the employment of emission factors;

(c) the calculations leading to the determination of the overall emissions.

3. Reported emissions may only be validated if reliable and credible data and information allow the emissions to be determined with a high degree of certainty. A high degree of certainty requires the regulated entity to show that:

(a) the reported data are free of inconsistencies;

(b) the collection of the data has been carried out in accordance with the applicable scientific standards; and

(c) the relevant records of the regulated entity are complete and consistent.

4. The verifier shall be given access to all sites and information in relation to the subject of the verification.

5. The verifier shall take into account whether the regulated entity is registered under the Union eco-management and audit scheme (EMAS).

Methodology

Strategic analysis

6. The verification shall be based on a strategic analysis of all the quantities of fuels released for consumption by the regulated entity. This requires the verifier to have an overview of all the activities through which the regulated entity is releasing the fuels for consumption and their significance for emissions.

Process analysis

7. The verification of the data and information submitted shall, where appropriate, be carried out on the site of the regulated entity. The verifier shall use spot-checks to determine the reliability of the reported data and information.

Risk analysis

8. The verifier shall submit all the means through which the fuels are released for consumption by the regulated entity to an evaluation with regard to the reliability of the data on the overall emissions of the regulated entity.

9. On the basis of this analysis the verifier shall explicitly identify any element with a high risk of error and other aspects of the monitoring and reporting procedure which are likely to contribute to errors in the determination of the overall emissions. This especially involves the calculations necessary to determine the level of the emissions from individual sources. Particular attention shall be given to those elements with a high risk of error and the abovementioned aspects of the monitoring procedure.

10. The verifier shall take into consideration any effective risk control methods applied by the regulated entity with a view to minimising the degree of uncertainty.

Report

11. The verifier shall prepare a report on the validation process stating whether the report pursuant to Article 14(3) is satisfactory. This report shall specify all issues relevant to the work carried out. A statement that the report pursuant to Article 14(3) is satisfactory may be made if, in the opinion of the verifier, the total emissions are not materially misstated.

Minimum competency requirement for the verifier

12. The verifier shall be independent of the regulated entity, carry out his or her activities in a sound and objective professional manner, and understand:

(a) the provisions of this Directive, as well as relevant standards and guidance adopted by the Commission pursuant to Article 14(1);

(b) the legislative, regulatory, and administrative requirements relevant to the activities being verified; and

(c) the generation of all information related to all the means through which the fuels are released for consumption by the regulated entity, in particular, relating to the collection, measurement, calculation and reporting of data.'.

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