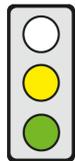


KEY ISSUES

Objective of the Regulation: Emissions and removals of greenhouse gases (GHG) in land use, land use change and forestry (LULUCF) are fully included into EU climate policy for the first time. In particular, GHG emissions are no longer permitted to exceed GHG removals.

Affected parties: Whole economy, particularly businesses in agriculture and forestry.



Pro: (1) Greater inclusion of LULUCF into EU climate policy is appropriate because GHG removals are just as important for climate protection as GHG emissions.

(2) The ability to sell net removals of GHGs to other Member States means that afforestation programmes can take place in the most suitable locations EU wide.

Contra: Member States should be permitted to set off emission-reducing land-use changes and afforestation programmes without restriction when they reach their GHG emission limits in other sectors.

CONTENT

Title

Proposal COM(2016) 479 of 20 July 2016 for a **Regulation** on the **inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework** and amending Regulation No 525/2013 of the European Parliament and the Council on a mechanism for monitoring and reporting greenhouse gas emissions and other information relevant to climate change

Brief Summary

Page and Article numbers refer to the proposal for a Regulation COM(2016) 479.

► Context and objectives

- Per area, depending on the type of land use, land use change and forestry (LULUCF), different amounts of greenhouse gases (GHGs) are emitted, and different amounts are removed from the atmosphere by absorption into the ground and by plants and wood products.
- GHGs are emitted when forest land is converted into agricultural land but are removed by afforestation.
- The EU is aiming to reduce emissions of greenhouse gases (GHGs) by at least 40% by 2030 as compared with 1990 levels ("40% target"; [Conclusions](#) of 23/24 October 2014, para. 2; see [cepInput No. 2/2015](#)). In order to achieve this target,
 - the GHG emissions of the companies subject to the Emissions Trading System (ETS, see [cepCompass EU Climate and Energy Policy](#), p. 10 et seq.) – particularly energy-intensive industrial installations and power stations – have to fall by 43% as compared with 2005 levels [COM(2015) 337; see [cepInput No. 4/2016](#)] and
 - GHG emissions from other economic sectors – particularly road transport, buildings and agriculture – must fall by 30%, as compared with 2005 levels, under the Effort Sharing Regulation ["ESR", COM(2016) 482, see [cepPolicyBrief](#)] (ESR sectors).
- Emissions and GHG removals in the LULUCF sector are not currently taken into account either in the ETS or explicitly in the legislation on ESR sectors. The proposed LULUCF Regulation aims for greater involvement of the LULUCF sector in achieving the targets of EU climate protection policy post-2021.
- GHG removals regularly exceed GHG emissions from the LULUCF sector ("net GHG removals"). In 2005, net removals amounted to 10% of GHG emissions from the ESR sectors [SWD(2016) 249, p. 9].
- The EU first established accounting rules for GHG emissions and GHG removals in the LULUCF sector in 2013 (Decision No. 529/2013/EU).
- This proposal for a Regulation contains
 - rules on the tracking and documentation of GHG emissions and GHG removals from the LULUCF sector and
 - the ban on excess GHG emissions (net emissions) from the LULUCF sector ("no-debit rule").

► Scope and definitions

- The proposed Regulation applies to the greenhouse gases carbon dioxide (CO₂) and – particularly relevant in agriculture – methane (CH₄) and nitrous oxide (N₂O) (Art. 2 (1) in conjunction with Annex I.A.).

- It applies to LULUCF falling precisely into one of the following five "land accounting categories" (Art. 2 (1)):
 - "managed forest land" covers forest land where no land-use change has taken place;
 - "afforested land" covers land converted to forest land by way of a land-use change;
 - "deforested land" covers formerly forest land which has been converted to another use by way of land-use change;
 - "managed cropland" covers areas which are or were cropland but have not been converted from or to forest land;
 - "managed grassland" covers areas which are or were grassland but have not been converted from or to forest land or cropland.
- A land-use change basically exists where a type of land has been converted into another type of land within the last 20 years (Art. 5 (3)).
- ▶ **Recording and accounting rules**
 - Member States must keep accounts for all five land accounting categories in which they must denote GHG emissions by a positive sign (+) and GHG removals by a negative sign (–) (Art. 5 (1)).
 - For all five land accounting categories, Member States record the change in carbon stock which has been absorbed in carbon pools – e.g. above-ground and underground biomass, wood products – (Art. 5 (4) in conjunction with Annex I.B.).
 - Member States determine total GHG emissions and total GHG removals for the periods 2021–2025 and 2026–2030,
 - in the case of managed forest land, as the difference from the projected reference values for both periods which take account of natural cycles and expected human intervention – such as the planned wood harvest [Art. 8 (1); SWD(2016) 249, p. 7];
 - in the case of afforested and deforested areas, for each individual year (Art. 6 (1));
 - in the case of managed cropland and grassland, as the difference from a reference value corresponding to the GHG emissions and GHG removals for the years 2005–2007 (Art. 7 (1)).
 - The reference values for managed forest land must
 - be based on "transparent, complete, consistent, comparable and accurate information" (Annex IV.A.) and
 - submitted to the Commission by the end of 2018 for the period 2021–2025 and by mid-2023 for the period 2026–2030 (Art. 8 (3)).
 - With regard to afforested and deforested land as well as managed forest land, Member States must account for changes in the pool of harvested wood products – such as paper, sawn wood and wood panels (Art. 9).
 - Member States may exclude from their accounts unforeseen GHG emissions resulting from natural disasters – such as the destruction of large areas of woodland by fire, storm or insect attack (Art. 10).
- ▶ **No-Debit Rule**
 - Every Member State must ensure that, during the periods 2021–2025 and 2026–2030, the total GHG emissions accounted for in all the land accounting categories combined do not exceed the total GHG removals ("No-Debit Rule", Art. 4).
 - Where, during the period 2021–2025, a Member State removes more GHG than it emits in the LULUCF sector, it can transfer the net GHG removals to the period 2026–2031 ("banking", Art. 11 (3)).
 - Where, in one of the two periods, a Member State emits more GHGs than it removes in the LULUCF sector, it can balance out the excess GHGs by
 - buying a corresponding volume of GHG removals from other Member States (Art. 11 (2)) or
 - deleting GHG emission allowances which have been allocated to it in respect of its ESR sectors under the future Effort Sharing Regulation [COM(2016) 482, see [cepPolicyBrief](#)] (Art. 11 (1)).
 - The Member States can, to a limited extent, use net GHG removals, achieved in the land accounting categories "afforested land", "managed cropland" and "managed grassland", to comply with their GHG limit in the ESR sectors [COM(2016) 482, Art. 7 (1); see [cepPolicyBrief](#)].
- ▶ **Compliance monitoring**
 - Member States must submit a report to the Commission, in 2027 for the period 2021–2025 and in 2032 for the period 2026–2030, containing a balance of total GHG emissions and total GHG removals in all five land accounting categories (Compliance Reports).
 - The Commission checks compliance with the no-debit rule on the basis of both compliance reports.

Main Changes to the Status Quo

- ▶ Until now, EU law has only established accounting rules for GHG emissions and GHG removals from the LULUCF sector (Decision No. 529/2013/EU). Now, an explicit no-debit rule will be set down in an EU Regulation.

- ▶ New: the fact that Member States can, to a limited extent, use net GHG removals, achieved in the land accounting categories "afforested land", "managed cropland" and "managed grassland", to comply with their GHG limit in the ESR sectors.

Statement on Subsidiarity by the Commission

Climate protection is a trans-boundary problem that cannot be solved by national or local action alone. The common climate policy in the EU requires a coordinated approach in all sectors including LULUCF. (P. 3)

Policy Context

The 1997 Kyoto Protocol to the UN Framework Convention on Climate Change obliged the parties, among them the EU Member States, to reduce their GHG emissions between 2008–2012 by at least 5% as compared with 1990 levels and in so doing, account for the GHG emissions and GHG removals in the LULUCF sector (Kyoto Protocol, Art. 3 (1) and (3)).

In 2014, the European Council called on the Commission to include the LULUCF sector in EU climate policy up to 2030 ([Conclusions](#) of 23/24 October 2014, para. 2.14; see [ceplInput No. 2/2015](#)). The proposal for a Regulation now being submitted complies with this request. It forms part of a climate package which also contains a proposal for a Regulation establishing binding national annual targets for reducing GHG emissions in the period 2021–2030 [COM(2016) 482, see [cepPolicyBrief](#)] and a European Strategy for Low Emission Mobility [COM(2016) 501].

Legislative Procedure

20 July 2016	Adoption by the Commission
Open	Adoption by the European Parliament and the Council, publication in the Official Journal of the European Union, entry into force

Options for Influencing the Political Process

Directorates General:	DG Climate (leading)
Committees of the European Parliament:	Environment, Public Health and Food Safety (leading), Rapporteur: Norbert Lins (EVP Group, D)
Federal Ministries:	Environment (leading)
Committees of the German Bundestag:	Environment, Conservation, Construction and Reactor Safety (leading); Economy and Energy, European Union Affairs.
Decision-making mode in the Council:	Qualified majority (adoption by a 55% majority of the Member States representing at least 65% of the population)

Formalities

Legislative competence:	Art. 192 TFEU (Environment)
Form of legislative competence:	Shared competence (Art. 4 (2) TFEU)
Legislative procedure:	Art. 294 TFEU (ordinary legislative procedure)

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

The proposed increased inclusion of LULUCF into EU climate policy is appropriate because GHG removals are just as important for climate protection as GHG emissions. In addition, there are overlaps in the regulation of GHG emissions particularly between the LULUCF sector and the agricultural sector which is one of the ESR sectors.

Impact on Efficiency and Individual Freedom of Choice

In calculating GHG emissions and GHG removals in managed forest areas, it is helpful to use reference values which allow natural cycles and human influence on forestry to be taken into account because GHG emissions and GHG removals should only be accounted for, in the corresponding period, to the extent that they are caused by humans in excess of a specific quantity. In this respect, however, the Commission should stipulate a uniform method of calculation to prevent Member States from being able to set an unrealistically high reference value so as to comply easily with the no-debit rule.

Where GHG emissions result from natural disasters, they should, in principle, only be excluded from the accounts where the natural disaster was unforeseeable and unavoidable. However, where e.g. the risk of forest fire is systematically increased in a Member State due to inadequate government regulation or control, the resulting GHG emissions, or at least a proportion of them, should have to be included in the accounts. This would prevent the careless acceptance of avoidable natural disasters.

It will be easier to comply with the no-debit rule in the period 2026–2030 if – as the Commission proposes – Member States are permitted to transfer net GHG removals from the period 2021–2025 to the subsequent period because GHG emissions and GHG removals depend on natural cycles and are therefore subject to annual fluctuations. **The ability to sell net GHG removals to other Member States** will lower the cost of complying with the no-debit rule in the EU because it **allows** e.g. **afforestation programmes to take place in the most cost-effective locations EU wide.**

In order to increase the efficiency of the GHG regulation, the LULUCF targets should be linked as closely as possible to those of the ESR sectors because it is irrelevant for climate protection whether a certain amount of GHG emissions is removed e.g. in the transport sector by more efficient vehicles or in the natural environment by afforestation programmes. **Member States should therefore be permitted to set off emission-reducing land-use changes and afforestation programmes,** where possible **without restriction, when they reach their GHG emissions limits in other sectors.**

Impact on Growth and Employment

Negligible.

Impact on Europe as a Business Location

Negligible.

Legal Assessment

Legislative Competency

Unproblematic. The EU is empowered to issue environmental measures for the protection of the climate (Art. 192 TFEU).

Subsidiarity

Unproblematic.

Conclusion

Increased inclusion of LULUCF into EU climate policy is appropriate because GHG removals are just as important for climate protection as GHG emissions. The ability to sell net removals of GHGs to other Member States means that afforestation programmes can take place in the most cost-effective locations EU wide. Member States should be permitted to set off emission-reducing land-use changes and afforestation programmes without restriction when they reach their GHG emissions limits in other sectors.