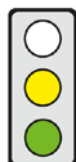


KEY ISSUES

Objective of the Regulation: The Member States will be allocated national targets for reducing greenhouse gases (GHG) in those sectors not subject to EU emissions trading (ETS), e.g. transport, agriculture and buildings.

Affected parties: Whole economy, particularly GHG emitters in non-ETS sectors.



Pro: (1) The ability to transfer excess GHG emission allocations to subsequent years facilitates savings in GHG emissions over the economic cycle.

(2) The ability to sell GHG emission allowances means that emissions can be reduced where it is cheapest to do so EU wide.

(3) Using emission allowances in non-ETS sectors brings down the cost of emissions reduction. This option should be open to all Member States however.

Contra: Instead of establishing national GHG reduction targets for 2030 in non-ETS sectors, all economic sectors should be included in the ETS because only the ETS guarantees that the agreed GHG reduction will be achieved at the lowest possible cost.

CONTENT

Title

Proposal COM(2016) 482 of 20 July 2016 for a **Regulation on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030** for a resilient Energy Union and to meet commitments under the Paris Agreement 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 numbers and Article numbers refer to the Proposal for a Regulation COM(2016) 482.

► Context and objectives

- In 2014, the European Council decided that emissions of greenhouse gases (GHG) in the EU must be reduced by at least 40% by 2030 as compared with 1990 levels ("40% Target"; [Conclusions](#) of 23/24 October 2014, para. 2; see [ceplinput No. 2/2015](#)).
- The stipulated target of a 40% reduction in GHGs by 2030 is given greater definition by two sub-targets:
 - reduction by 43% compared with 2005 for sectors in the Emissions Trading System (ETS) – particularly energy intensive industries and power stations – [COM(2015) 337; see [ceplinput No. 4/2016](#)] and
 - reduction by 30% compared with 2005 for sectors not subject to the ETS - particularly road transport and the buildings sector - (non-ETS sectors).
- This proposal for a Regulation
 - gives each Member State a binding national GHG reduction target for non-ETS sectors (Art. 4 (1) in conjunction with Annex I) and
 - stipulates how Member States can meet their GHG reduction targets by way of "flexibility options".

► National 2030 GHG reduction targets for non-ETS sectors

- Every Member State receives a GHG reduction target between 0% and 40% (p. 2). The higher the country's gross domestic product per capita (GDP/capita), the higher the target (Recital 2).
- The specific national 2030 GHG reduction targets were (Annex I):

<i>Country</i>	<i>Target</i>	<i>Country</i>	<i>Target</i>	<i>Country</i>	<i>Target</i>	<i>Country</i>	<i>Target</i>
Luxembourg	40%	Netherlands	36%	Malta	19%	Lithuania	9%
Sweden	40%	Austria	36%	Portugal	17%	Croatia	7%
Denmark	39%	Belgium	35%	Greece	16%	Poland	7%
Finland	39%	Italy	33%	Slovenia	15%	Hungary	7%
Germany	38%	Ireland	30%	Czech Rep.	14%	Latvia	6%
France	37%	Spain	26%	Estonia	13%	Romania	2%
UK	37%	Cyprus	24%	Slovakia	12%	Bulgaria	0%

► **Annual national GHG limits**

- The Commission, in an implementing act, sets annual national GHG limits for the years 2021-2030, which will be reduced each year pursuant to a linear reduction factor (LRF) (Art. 4 (2) and (3) in conjunction with Art. 13).
- The LRF of a Member State is calculated as the annual GHG reduction which it must achieve – based on its average GHG emissions in the non-ETS sectors in the years 2016–2018 – in order to reach its 2030 GHG reduction target (Art. 2).

► **Using flexibility options by borrowing and transferring emission allowances**

- Each Member State receives an allocation of GHG emission allowances ("emission allocation") amounting to its annual GHG limit.
- For the period 2021–2030, Member States can (Art. 5 (2) and (3))
 - borrow 5% from their annual emission allocation for subsequent years up until 2030 and
 - transfer all of its excess annual emission allocations to subsequent years up to and including 2030.
- Member States can transfer excess emission allocations - provided these do not amount to more than 5% of its respective annual emission allocation - to other Member States. Member States that receive emission allocations from other Member States, may use them to meet their annual GHG limits ("compliance") in the same year or in a subsequent year up to 2030. (Art. 5 (4) and (5))
- Member States may use all GHG savings which they have overseen in third countries ("project credits") in order to meet their national GHG limits (Art. 5 (6)).

► **Using flexibility options by cancelling ETS allowances**

- Member States provide the sectors in the ETS with emission allowances ("allowances"), the amount of which is reduced annually.
- Nine Member States can – provided they have notified the Commission by the end of 2019 – cancel a limited number of ETS allowances and set off the resulting emissions reduction against their GHG limit in the non-ETS sectors (Art. 6 (1) and (2)). This applies to [Annex II; SWD(2016) 217, p. 62]
 - Belgium, Denmark, Ireland, Luxembourg, Netherlands, Austria, Finland and Sweden, because their allocated GHG reduction target is "significantly" above the EU average and complying with it would not be cost effective without the flexibility option, and
 - Malta because it already has the lowest volume of emissions per capita in the non-ETS sectors.
- The number of cancelled allowances that can be used for compliance with the GHG limits in the non-ETS sectors in the period from 2021 to 2030
 - must not exceed 100 million EU wide (Art. 6 (1)) and
 - is – based on the extent of national GHG emissions in 2005 – limited to (Annex III)
 - 2% in Belgium, Denmark, Malta, Netherlands, Austria, Finland and Sweden, and to
 - 4% in Ireland and Luxembourg.

► **Using flexibility options by accounting for "climate friendly" land use**

- Depending on the type of land use, land use change and forestry (LULUCF), varying amounts of GHG per surface area can be absorbed. Changing forested areas to agricultural land increases GHG emissions, afforestation reduces them.
- Under LULUCF, Member States have to
 - keep accounts of the resulting changes in GHG emissions [Proposal for a LULUCF Regulation COM(2016) 479, Art. 5] and
 - ensure that the emissions do not exceed the removals achieved elsewhere ["No-Debit-Rule", Proposal for a LULUCF Regulation COM(2016) 479, Art. 4].
- Where a Member State has, on balance, removed more GHG emissions in the area of land use, land use change and forestry (LULUCF), it can use this excess ("net reduction") to a limited extent to comply with its GHG limit in non-ETS sectors (Art. 7 (1)).
- The total amount of net removals of GHG emissions which can be applied is 280 million tonnes of CO₂ equivalents. Of this, the largest share is allocated to the Member States where agriculture makes up a large proportion of the gross domestic product [Annex III; SWD(2016) 247, p. 30 et seq.].

► **Monitoring compliance with national targets**

- The Commission will carry out,
 - in 2027, for every year between 2021 and 2025 and
 - in 2032, for every year between 2026 and 2030,
 a comprehensive assessment of the annual GHG emissions ("compliance check").
- Where the emissions of a Member State exceed – beyond the permitted amount of flexibility – its emission allocations,
 - the excess emissions plus an eight-percent "penalty" will be deducted from the emission allocation for the years 2028 or 2033 respectively and
 - the Member State will be prohibited from transferring part of its annual emission allocations to other Member States until it complies with its GHG limit.

Main Changes to the Status Quo

- ▶ Until now, there were only national GHG limits in the non-ETS sectors for the period 2013–2020. In future there will also be GHG limits for the period 2021 to 2030.
- ▶ New: certain Member States can set off the cancellation of a limited number of GHG allowances from the ETS against their GHG limits in the non-ETS sectors.
- ▶ New: the ability to use GHG savings in LULUCF to comply with national GHG limits in non-ETS sectors.
- ▶ Until 2020, compliance with emission reduction targets will be monitored by the Commission every year for the foregoing year; as from 2021, the compliance check will only take place every five years.

Statement on Subsidiarity by the Commission

According to the Commission, the proposed provisions are compatible with the principle of subsidiarity because climate change is a cross-border problem which cannot be solved by national or local measures alone. Climate protection measures must be coordinated at European or – if possible – global level. (p. 4 et seq.)

Policy Context

GHG reduction between 2013 and 2020 in the non-ETS sectors is regulated in the Effort Sharing Decision No. 406/2009/EC (see [cepPolicyBrief](#)). Much of the content of the Effort Sharing Regulation, now proposed for 2021 to 2030, had already been decided on by the European Council in 2014. Thus it established that the national GHG reduction targets should be between 0% and 40%. The Commission already submitted a proposal for a Directive, in July 2015, on the design of the ETS as from 2021 [COM(2015) 337, see [cepPolicyBrief](#)].

The proposal for a Regulation now being submitted forms part of a climate package which also contains a proposal on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry into the 2030 climate and energy framework 2030 [COM(2016) 479] 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: TBA
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

Impact on Efficiency and Individual Freedom of Choice

Obligatory national 2030 GHG reduction targets inhibit savings in GHG emissions from being made in those Member States where it is cheapest to do so. This will push up the cost of GHG reduction in the EU unnecessarily. **Instead of establishing national GHG reduction targets for 2030, all economic sectors should be included in the ETS because only the ETS guarantees that the agreed GHG reduction will be achieved across borders at the lowest possible cost.** In the case of sectors with a large number of emitters – such as road transport or the buildings sector – inclusion via so-called "upstream emissions trading" is appropriate whereby it is the fuel suppliers rather than the emitters that are subject to the requirement of allowances (see [cepInput No. 05/2015](#)).

A disproportionate reduction obligation for Member States with high GDP/capita is obviously motivated by distribution policy, probably with the aim of making it easier to reach a political compromise. It should also be

borne in mind, however, that in the past GHGs were reduced in these countries by way of investment in energy efficiency and they therefore have less potential for making savings than in countries with low GDP/capita.

The ability to transfer excess GHG emission allocations to subsequent years and to borrow future GHG emission allocations, **facilitates savings in emissions over the economic cycle** because the amount of GHGs emitted in a country also depends on its economic situation. In a boom, the volume of GHG emissions increases along with production and consumption which is why it is then more difficult for a Member State to comply with the emissions limit than during a recession.

The ability to sell excess GHG emission allowances to other Member States, brings down the cost of reducing GHG emissions in the EU because it **means emissions can be reduced in the places where it is cheapest to do so EU wide**. Restricting this option to 5% of annual emission allocations, however, limits the potential for greater efficiency arising from the trade in GHG emission allowances.

Using ETS emission allowances, which have been withheld from the market, **as additional emission allowances in non-ETS sectors**, also **brings down the cost of emissions reduction** because it allows emissions reduction to take place to a greater extent than previously in the ETS where the costs involved are significantly lower than in the non-ETS sectors – as clearly shown by the currently lower allowance price. **This option should not however be restricted** either to a specific amount or to nine Member States but **granted to all Member States**. Otherwise the accompanying potential for making savings in GHG emissions cannot be used to the full.

In addition to the reduction of GHGs arising from the burning of fossil fuels, the amount of GHGs that can be absorbed by nature is also crucial for climate protection. Therefore, in order to increase the efficiency of GHG regulation, the targets in non-ETS sectors should be linked as closely as possible to those of LULUCF because, from the point of view of climate protection, it is irrelevant whether a specific amount of GHG emissions is saved e.g. by more efficient cars or absorbed by nature e.g. by way of afforestation programmes. Member States should therefore – contrary to the Commission's proposal – be permitted to set off emission-reducing changes in land use and afforestation programmes without limit for the purpose of complying with their GHG emissions limit.

Impact on Growth and Employment

In order to achieve their national GHG reduction targets, Member States must create regulations which make the consumption of fossil fuels more expensive. This pushes up the costs to consumers and companies which has a negative impact on growth and employment in the EU.

Impact on Europe as a Business Location

The impact of the proposed Regulation on Europe's quality as a business location is negligible for companies in non-ETS sectors because, for the majority of economic sectors affected, the energy costs are either only a small proportion of overall costs or – as in the case of transport and the buildings sector – there is no possibility of transferring the business activity to a third country.

Using ETS emission allowances in the non-ETS sectors will however lead to a shortage of allowances and thus to an increase in the allowance price, which pushes up production costs for companies in the ETS who have to obtain their allowances at auction. In order to avoid carbon leakage – i.e. the relocation of CO₂-intensive production to third countries – the Commission must ensure that companies in the ETS that are subject to intense international competition from companies in third countries, continue to receive their allocation of allowances free of charge (see [ceplnput No. 3/2016](#)).

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

Instead of establishing national 2030 GHG reduction targets, all economic sectors should be included in the ETS because only the ETS guarantees that the agreed GHG reduction will be achieved at the lowest possible cost. The ability to transfer excess GHG emission allocations to subsequent years facilitates GHG emissions reduction over the economic cycle. The ability to sell excess GHG emission allowances to other Member States means that emissions can be reduced in the places where it is cheapest to do so EU wide. The use of emission allowances in non-ETS sectors reduces the cost of emissions reduction. This option should, however, be open to all Member States.