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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Proposal for a Decision of the European Parliament and of the Council amending Decision (EU) 2015/1814 as regards the amount of allowances to be placed in the market stability reserve for the Union greenhouse gas emission trading scheme until 2030
- Analysis of the final compromise text with a view to agreement

In view of the Coreper meeting on 8 February 2023, delegations find attached the final compromise text of the proposal for amending Decision (EU) 2015/1814 (MSR Decision).

2021/0202(COD) - MSR

**DECISION (EU) 2023/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

of ...

amending Decision (EU) 2015/1814 as regards the amount of allowances to be placed in the market stability reserve for the Union greenhouse gas emission trading scheme until 2030

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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

Whereas:

- (1) The Paris Agreement, adopted in December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) entered into force in November 2016 (“the Paris Agreement”)³. **Its Parties** have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. ***This has been reinforced with the adoption of the Glasgow Climate Pact in November 2021, in which the Conference of the Parties recognises that the impacts of climate change will be much lower at the temperature increase of 1,5 °C, compared with 2 °C, and resolve to pursue efforts to limit the temperature increase to 1,5 °C.***
- (1a) ***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 IPCC Sixth Assessment Report, that global warming can only be limited to 1.5 °C, if strong and sustained reductions in global greenhouse gas (GHG) emissions within this decade are immediately undertaken.***
- (2) Tackling climate and environmental-related challenges and reaching the objectives of the Paris Agreement are at the core of the Communication on “The European Green Deal”, adopted by the Commission on 11 December 2019⁴.

³ Paris Agreement (OJ L 282, 19.10.2016, p. 4).

⁴ COM(2019)640 final.

- (3) The European Green Deal combines a comprehensive set of mutually reinforcing measures and initiatives aimed at achieving climate neutrality in the EU by 2050, and sets out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where economic growth is decoupled from resource use. It also aims to protect, conserve and enhance the Union's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. At the same time, *that transition 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 islands.* It must therefore be ensured that the transition is just and inclusive, leaving no one behind.
- (4) The necessity and 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, living and working conditions and well-being of the Union's citizens, which have shown that our society and our economy need to improve their resilience to external shocks and act early to prevent or mitigate them *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 change⁵.
- (5) The Union committed to reduce the Union's economy-wide net greenhouse gas emissions by at least 55 % by 2030 below 1990 levels in the updated nationally determined contribution submitted to the UNFCCC Secretariat on 17 December 2020⁶.

⁵ Special Eurobarometer 513 on Climate Change, 2021, https://ec.europa.eu/clima/citizens/support_en.

⁶ [https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/European %20Union %20First/EU_NDC_Submission_December %202020.pdf](https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/European%20Union%20First/EU_NDC_Submission_December%202020.pdf)

- (6) In Regulation (EU) 2021/1119 **■** the Union has enshrined *in legislation* the target of economy-wide climate neutrality by 2050, *at the latest, and the aim to achieve negative emissions thereafter*. That Regulation also establishes a binding Union domestic reduction commitment of net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % below 1990 levels by 2030. *That Regulation also establishes that the Commission should endeavour to align all future legislative and budgetary proposals with the objectives and targets set out in that Regulation and, in any case of non-alignment, provide the reasons as part of the impact assessment accompanying those proposals.*
- (7) All sectors of the economy need to contribute to achieving those emission reductions. Therefore, the ambition of the EU Emissions Trading System (EU ETS), established by Directive 2003/87/EC of the European Parliament and of the Council⁷, should be adjusted to be in line with the economy-wide net greenhouse gas emissions reduction commitment for 2030, *and be in line with the objective of achieving climate neutrality by 2050, at the latest, and the aim to achieve negative emissions thereafter, as laid down in Article 2(1) of Regulation (EU) 2021/1119.*

⁷ 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).

- (8) In order to address the structural imbalance between supply and demand of allowances in the market, Decision (EU) 2015/1814 of the European Parliament and of the Council⁸ established a market stability reserve (the ‘reserve’) in 2018, which has been operational since 2019. *Without prejudice to further revisions of the reserve as part of the general revision of Directive 2003/87/EC and Decision (EU) 2015/1814 taking place in 2022, the Commission should continuously monitor the functioning of the reserve and ensure that the reserve is kept fit for purpose in case of future unforeseeable external shocks. A robust and forward-looking reserve is essential to ensure the integrity of and effectively steer the EU ETS in order for it to contribute, as a policy tool, to achieving the Union’s climate-neutrality objective by 2050, at the latest, and the aim to achieve negative emissions thereafter as laid down in Article 2(1) of Regulation (EU) 2021/1119.*
- (9) The reserve functions by triggering adjustments to the annual volumes of allowances to be auctioned. In order to preserve a maximum degree of predictability, Decision (EU) 2015/1814 established clear rules for placing and releasing allowances in the reserve.
- (10) Where the number of allowances in circulation is above the established upper threshold, an amount of allowances corresponding to a given percentage of these allowances is deducted from the volumes of allowances to be auctioned and placed in the reserve. Meanwhile, a corresponding number of allowances is released from the reserve to Member States, and added to the volumes of the allowances to be auctioned, if the total number of allowances in circulation falls below the established lower threshold.

⁸ 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).

- (11) Directive (EU) 2018/410 of the European Parliament and of the Council⁹ amended Decision (EU) 2015/1814 by doubling the percentage rate to be used for determining the number of allowances to be placed each year in the reserve from 12 % to 24 % until 31 December 2023 *to deliver a credible investment signal to reduce CO₂ emissions in a cost-efficient manner. That decision was taken in the context of the former Union 2030 climate target of reducing economy-wide greenhouse gas emissions by at least 40 % compared to 1990 levels.*
- (12) In accordance with Decision (EU) 2015/1814, within three years of the start of the operation of the reserve, the Commission is to carry out its first review on the basis of an analysis of the orderly functioning of the European carbon market and, where appropriate, submit a proposal to the European Parliament and to the Council.
- (13) The review paid particular attention to the percentage figure for the determination of the number of allowances to be placed in the reserve, as well as to the numerical value of the threshold for the total number of allowances in circulation and the number of allowances to be released from the reserve.
- (14) The analysis carried out in the context of the reserve's review and the expected developments relevant to the carbon market demonstrate that a rate of 12 % of the total number of allowances in circulation to be placed in the reserve each year after 2023 is insufficient to prevent a significant increase of the surplus of allowances in the EU ETS. *Maintaining the rate of 24 % in this Decision should be without prejudice to further revisions of the reserve, including, if appropriate, revision of the rate of allowances to be placed in the reserve, as part of the general revision of Directive 2003/87/EC and Decision (EU) 2015/1814 taking place in 2022.*

⁹ 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).

(15b) *Since the objective of this Decision, namely the continuation of the current parameters of the market stability reserve as established pursuant to Directive (EU) 2018/410, 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 Decision does not go beyond what is necessary in order to achieve that objective.*

(16) Decision (EU) 2015/1814 should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Amendments to Decision (EU) 2015/1814

In Article 1(5), first subparagraph, of Decision (EU) 2015/1814, the last sentence is replaced by the following:

‘By way of derogation from the first and second sentences, until 31 December 2030, the percentages and the 100 million allowances referred to in those sentences shall be doubled.’

Article 2
Entry into force

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

Done at ..., ...

For the European Parliament
The President

For the Council
The President
