Council of the European Union

Brussels, 30 October 2026
(OR. en)

15143/26

Interinstitutional File:
2026/0212 (COD)

LIMITE

CLIMA 601
ENV 1334
ENER 722
TRANS 666
IND 649
COMPET 1278
MI 1093
ECOFIN 1394
CODEC 2023

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC and Decision (EU) 2015/1814 as regards driving competitiveness and cost-effective decarbonisation - Presidency compromise text

In view of the meetings of the Working Party on the Environment on 4 and 9 November 2026, delegations will find attached a Presidency compromise text. It aims at taking into account delegations' comments and includes corrections and clarifications to the Commission proposal.

The text does not include amendments to the main political aspects of the Commission proposal.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

ANNEX

2026/0212 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/87/EC and Decision (EU) 2015/1814 as regards driving competitiveness and cost-effective decarbonisation

(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,

Whereas:

(1) The Paris Agreement[3], adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the 'Paris Agreement'), entered into force on 4

---

1 OJ C , , p. .
2 OJ C , , p. .
3 OJ L 282, 19.10.2016, p. 4.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

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.

(2) The urgency to maintain the efforts to achieve the Paris Agreement goal of 1,5 °C 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) On 5 November 2025, the Union submitted its nationally determined contribution (NDC) to the UNFCCC, following its approval by the Council. The NDC indicates that, following the setting of the target for 2040 climate target of the Union, and in line with the foreseen reviews, the Commission will prepare a climate policy architecture for beyond 2030, and prepare the proposals for this policy framework that will be needed to deliver the 2040 target in a fair and cost-efficient manner.

(4) The NDC was prepared on the basis of the outcome of the political debate launched by the Commission Communication of 6 February 2024 on “Securing our future Europe's 2040 climate target and path to climate neutrality by 2050 building a sustainable, just and prosperous society”4 which was based on an extensive impact assessment, as well as stakeholder input, collected via public consultation. That impact assessment underlies the impact assessment supporting this Directive.

(5) The Competitiveness Compass5 and the Clean Industrial Deal6 have identified continued decarbonisation and accelerated circularity as essential elements to further reduce Europe’s dependencies on fossil fuels and strengthen economic competitiveness and resilience, while

---

4 COM(2024) 63 final.

5 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, A Competitiveness Compass for the EU, 29 January 2025 (COM(2025) 30 final).

6 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The Clean Industrial Deal: A joint roadmap for competitiveness and decarbonisation, 26 February 2025 (COM(2025) 85 final).

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

setting out the direction for adapting the EU Emissions Trading System (ETS) to a changing geoeconomic context while maintaining the fundamentals.

(6) The rapidly changing geopolitical context further emphasised the importance of delivering on the Clean Industrial Deal to enhance resource security and address Europe's dependence on imported fossil fuels, which is the main cause of higher, and more volatile, energy prices. Conflicts in Ukraine and the Middle East confront the Union once again with volatile and rising energy prices driven by Europe's dependence on imported fossil fuels, which damage the competitiveness of European industry. The EU ETS should continue to be a robust, predictable and fit for purpose driver of decarbonisation, thereby lowering the EU's dependence on fossil fuel imports and strengthening its resilience, while fostering investments in the clean energy transition in homegrown renewables and other zero- and low-carbon energy sources.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(7) In its conclusions of 19 March 20267 the Council invited the Commission to present a review of the EU ETS by July 2026 at the latest, to reduce the volatility of the carbon price and mitigate its impact on electricity prices, including related supply chain costs, and on diversion of activities, while preserving the essential role of the ETS in the climate and energy transition through a market-based price signal for carbon emissions that drives investment and innovation. The Parliament, the Council and the Commission, signed the 'One Europe, One Market' roadmap setting Q1 2027 as target for agreement for the review of the EU ETS8.

(8) By Regulation (EU) 2021/1119 of the European Parliament and of the Council9, the Union has laid down the objective of economy-wide climate neutrality by 2050 at the latest and the aim of achieving negative emissions thereafter. That Regulation also 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.

Agence Europe

7 European Council Conclusions 19 March 2026 EUCO 1/26 CO EUR 1 CONCL 1.

8 One Europe, One Market Roadmap of the European Parliament, the Council of the European Union and the European Commission.

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) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/1119/oj).

Obtenu pour vous par
Obtained by
agence europe

(9) Regulation (EU) 2021/1119, as amended Regulation (EU) 2026/667 of the European Parliament and of the Council10, establishes a binding Union reduction target for net greenhouse gas emissions (emissions after deduction of removals) of 90 % compared to 1990 levels by 2040. This target includes a possibility to use a limited quantity of high-quality international credits to make an 'adequate contribution' towards the 2040 target, starting in 2036. This amount can be up to 5% of 1990 EU net GHG emissions, corresponding to a domestic reduction of net GHG emissions of at least by 85% compared to 1990 levels by 2040. In accordance with Article 4(5)(a) of Regulation (EU) 2021/1119, a pilot period in 2031-2035 may be considered.

(10) 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 to be in line with the economy-wide net greenhouse gas emission reduction target for 2040, 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.

Agence Europe

---

10 **Regulation (EU) 2026/667 of the European Parliament and of the Council of 11 March 2026 amending Regulation (EU) 2021/1119 as regards the setting of a Union intermediate climate target for 2040 (OJ L, 2026/667**, ELI: http://data.europa.eu/eli/reg/2026/667/oj**).**

Obtenu pour vous par
Obtained by
agence europe

(11) The NDC of the Union and its Member States under the Paris Agreement includes emissions from aviation subject to effective carbon pricing through the EU ETS which, until 31 December 2026, only comprises flights within the European Economic Area (EEA), departing flights to Switzerland and departing flights to the United Kingdom. The NDC notes that any broader scope would result from the amendment of Directive 2003/87/EC of the European Parliament and of the Council11 based on this Directive. Emissions from aviation are expected to increase, unless the use of alternative fuels is increased. The additional aviation emissions covered by the EU ETS from 2027 onwards should not yet be included in the NDC of the Union and its Member States, nor be considered to be emissions for the purposes of Regulation (EU) 2021/1119.

(12) There should be further support from the EU ETS for the use of sustainable aviation fuels alongside binding legislative mandates pursuant to Regulation (EU) 2023/2405 of the European Parliament and of the Council12, notwithstanding that these mandates are in place even without support from the EU ETS. Therefore, the availability of reserved allowances for the use of sustainable aviation fuels and other aviation fuels that are not derived from fossil fuels under Article 3c(6) of Directive 2003/87/EC should be extended until 2040. A lower proportion of the price difference should be covered, in order to enable a longer period of time for the mechanism being in place. There should also be equal treatment of all forms of propulsion, including electrification. The extension of the geographic scope of the EU ETS for aviation, in combination with the corresponding increase of the total amount of allowances to be allocated in respect of aircraft operators, enables an increased number of allowances for supporting alternative propulsion technologies and fuels.

Agence Europe

---

11 Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, ELI: http://data.europa.eu/eli/dir/2003/87/oj).

12 Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation) (OJ L, 2023/2405, 31.10.2023, ELI: http://data.europa.eu/eli/reg/2023/2405/oj).

Obtenu pour vous par
Obtained by
agence europe

(13) Notwithstanding that the scope of carbon pricing is only extended partially from January 2029, the ETS support for alternative propulsion technologies and fuels should nonetheless be extended to all departing flights from that date. This maintains equal treatment on all routes departing from any aerodrome in the European Economic Area, and incentivises their rapid deployment.

(14) To reduce aviation's total climate impacts, the support mechanism referred to in Article 3c(6) of Directive 2003/87/EC should also support cost-effective approaches. The use of contrail forecasting models to support cost-effective mitigation of contrails (also known as condensation trails) offers a low-cost complement to other approaches supported by this mechanism. It should rely on a limited share of the number of allowances reserved for the purposes provided for in Article 3c(6). The mechanism should be complementary to the monitoring, reporting and verification framework for non-CO_2 aviation effects pursuant to Article 14(5) of that Directive.

(15) In view of rewarding most efficient installations, it is appropriate to extend the possibility, for installations previously included in the EU ETS due to the operation of combustion units with a total rated thermal input exceeding 20 MW that change their production processes to reduce their greenhouse gas emissions and no longer meet that threshold as a result, to remain under the EU ETS until the end of the two following five-year periods for free allocation following the change to their production processes.

(16) For business flights, the reserved amount of allowances should only be available in the case of aircraft using electricity or hydrogen for propulsion. In order to ensure uniform conditions for the allocation of reserved allowances pursuant to Article 3c(6) of Directive 2003/87/EC, implementing powers should be conferred on the Commission to adopt a list of aircraft that are considered business aircraft. Such powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council13.

(17) In view of ensuring that installations are always covered by either the status of new entrant or of incumbent installation within each of the five-year periods referred to in Article 11 of

---

13 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, pp. 13–18, ELI: http://data.europa.eu/eli/reg/2011/182/oj).

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Directive 2003/87/EC, it is necessary to revise the definition of new entrant under that Directive. Specifically, the definition of a 'new entrant' under Article 3, point (h), of Directive 2003/87/EC, read together with the definition of an 'incumbent installation' under Article 2, point (1), of Commission Delegated Regulation (EU) 2019/33114, there is a missing time period of 1.5 years at the end of each free allocation period, starting three months before the submission of the list for the next period pursuant to Article 11(1) of Directive 2003/87/EC, where neither of the two definitions apply. Therefore, the definition of 'new entrant' should be revised to align with the current practice, whereby an installation is only treated as incumbent where it is included in the list submitted pursuant to Article 11(1) of Directive 2003/87/EC for the relevant period. As a result, any installation receiving a permit for the first time within the period starting from three months before the date for submission of the list under Article 11(1), and ending on 31 December of the last year of the corresponding five-year period for free allocation should regarded as a new entrant for that period. In the situation where an installation obtains a greenhouse gas emissions permit for the first time which is then, successively, withdrawn and that installation is granted another new greenhouse gas emissions permit under the same allocation period, the installation should only be able to re-enter the EU ETS in the following allocation period, under the applicable qualification either as new entrant or incumbent installation in accordance with the relevant definitions under Article 3, point (h), of Directive 2003/87/EC and Article 2, point (1), of Delegated Regulation (EU) 2019/331.

Agence Europe

[14] **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, pp. 8–69**, ELI: http://data.europa.eu/eli/reg_del/2019/331/oj**).**

Obtenu pour vous par
Obtained by
agence europe

(18) The Union is to achieve climate neutrality by 2050 at the latest and all sectors of the economy, including maritime transport, are to contribute to achieving the emission reductions established by Regulation (EU) 2021/1119, in line with its updated NDC. The inclusion of maritime transport in the EU ETS since 2024 ensures that the sector contributes its fair share to the climate objectives of the Union as well as to the objectives of the Paris Agreement. The International Maritime Organization (IMO) adopted, in 2023, a strategy to decarbonise shipping15 'by or around, i.e. close to, 2050' and agreed on developing mid-term measures to implement it, considering a basket of candidate measures covering both technical and economic elements. The adoption and implementation of such a global measure putting effectively a price on greenhouse gas emissions from maritime transport in parallel to the EU ETS would entail a risk of double payments by shipping companies. The provisions of Directive 2003/87/EC as regards maritime transport activities should 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, including avoiding double payment. As appropriate, and in order to prevent such a risk of double payment while ensuring that no environmental backsliding occurs, the accompanying legislative proposal should provide for an IMO deduction mechanism according to which it is appropriate to allow shipping companies to surrender fewer allowances than their verified emissions to the extent that those emissions are also effectively priced under the IMO measure. To take into account the potential role of the Union in supporting the broader international effort to decarbonise maritime transport, the accompanying legislative proposal should provide for a measure according to which allowances are to be reserved to supportleast developed countries and small island developing countries.

---

15 ANNEX 1, RESOLUTION MEPC.377(80), Adopted on 7 July 2023, 2023 IMO Strategy on reduction of GHG emissions from ships.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(19) Significant investments will continue to be required to support the decarbonisation of maritime transport, including investments in fleet retrofitting and the deployment of clean technologies. At the same time, Member States with a particularly high concentration of shipping companies relative to their population continue to incur proportionately higher administrative costs in implementing the EU ETS to support decarbonisation of maritime transport including supporting capital investments in the maritime sector, including ports, shipping companies, as well as for the use of sustainable fuels and propulsion technologies. The temporary allocation of allowances provided for in Article 3ga(3), second subparagraph of Directive 2003/87/EC contributes to supporting those objectives through the use of the corresponding auction revenues in accordance with this Directive. It is therefore appropriate to extend its application until 31 December 2038. The Commission should assess, by 30 September 2035, whether a further extension is justified.

(20) The transition from the use of fossil fuels, alongside energy efficiency improvements, is essential to achieving the decarbonisation of the maritime sector. However, the significant price differentials between conventional fossil fuels and sustainable maritime fuels as well as the pace of deployment of zero-emission propulsion technologies, such as electric and wind-assisted propulsion systems, hamper this transition. Support to early movers is therefore desirable to de-risk investments in maritime decarbonisation in the Union. Hence, during the period from 1 January [2028/first year after the entry into force of this directive] until 31 December 2040, 110 million allowances should be reserved to be allocated to shipping companies, on a transparent, equal and non-discriminatory basis, to cover part of the price differential between conventional fossil fuels and eligible sustainable maritime fuels, as well as all or part of the additional cost incurred in deploying and operating eligible zero-emission propulsion technologies, and technologies required to use eligible sustainable maritime fuels upon verified operation on such fuels. Where allowances are allocated to a shipping company under this reserve, such allocation should be taken into account by the shipping company if it intends to transfer the costs arising from the surrender of allowances to another entity in accordance with the reimbursement mechanism laid down in Article 3gc of Directive 2003/87/EC. For instance, contractual arrangements may provide for the transfer of the allocated allowances from the shipping company to the other entity. The Commission should be empowered to adopt delegated acts to supplement Directive 2003/87/EC with the detailed rules necessary for the application of this reserve and to adopt implementing acts to establish

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

the lists of non-Union ports and third countries in respect of which a derogation from the origin requirements should apply.

(21) Given the evolving technological and commercial maturity of sustainable maritime fuels and zero-emission alternative propulsion technologies, the Commission should carry out an evaluation of the functioning of the reserve established under Article 3gaa.

(22) Evasive behaviour from shipping companies is problematic, in particular as it can undermine the environmental integrity of the EU ETS. In order to reduce the risk of evasive port calls by containerships to ports outside the Union and the relocation of container transhipment activities outside the Union, Directive 2003/87/EC provides for an exclusion from the definition of 'port of call' of stops of containerships in a neighbouring container transhipment port identified in the implementing acts adopted pursuant to Article 3ga(2) of that Directive. However, the criterion related to the port's share of transhipment of containers may not adequately cover ports outside the Union that have a high potential to attract transhipment activities from Union ports and where the transhipment of containers accounts for most container traffic. It is therefore appropriate to set this criterion at 50 % instead of 65 %. In addition, it is appropriate to exclude from the definition of 'port of call' ports with the necessary infrastructure for container transhipment activities that are located in the Union's immediate vicinity, namely within 150 nautical miles from a port under the jurisdiction of a Member State. 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. This includes ports in a third country with whom an ETS linking agreement is in place. To better capture major disruptions in the shipping market, which can rapidly alter container transhipment patterns, the Commission should review the validity of the list that identifies neighbouring container transhipment ports once a year instead of once every two years. However, for reasons of administrative efficiency, the Commission should be empowered to adopt implementing acts that amend the list of neighbouring container transhipment ports only where necessary, for example where a port ceases to meet the criteria to be identified as a neighbouring container transhipment port. In order to further reduce the risk of evasive port calls outside of the Union and the relocation of container transhipment activities outside of the Union, it is appropriate to provide for a complementary measure. Such measure should consist in a temporary derogation from the surrender obligations under Directive 2003/87/EC in respect of certain maritime transport

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

activities by large containerships that perform long-distance voyages between ports outside the Union and Union ports.

(23) To avoid or minimise EU ETS compliance costs, shipping companies performing or supporting offshore operations might be inclined to use bases located outside the Union instead of bases located in the Union, or to add evasive port calls outside the Union. To reduce the risk of circumvention and ensure a level playing field, the definition of 'port of call' should be amended in order to include offshore worksites where shipping companies perform or support offshore operations, including activities of scientific research concerning the resources of the seabed and its subsoil, and activities related to the design, planning, construction, operation, maintenance and decommissioning of offshore installations and infrastructure.

(24) Emissions from ships below 5 000 gross tonnage but not below 400 gross tonnage represent about 15 % of emissions from ships under the scope of application of Directive 2003/87/EC, but emissions from ships within that range are emitted by a large number of ships. The inclusion of emissions from certain categories of ships below 5 000 gross tonnage but not below 400 gross tonnage is beneficial to improve the effectiveness of the EU ETS and the level playing field with ships of 5 000 gross tonnage and above and therefore those ships should be included in the scope of this Directive. No later than 31 December 2031, 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 ro-pax ships and passenger ships below 5 000 gross tonnage."

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(25) The current derogations provided for in Directive 2003/87/EC from the obligation to surrender allowances for ice-class ships, for voyages involving outermost regions and small islands without a fixed land connection, and for certain passenger transport services operated under public service obligations or public service contracts are set to end on 31 December 2030. While the decarbonisation of ice-class ships and the fleets serving those routes and services is progressing and innovative technologies such as battery-electric and wind-assisted propulsion are becoming increasingly viable, the large-scale deployment of emission reduction solutions on those vessels that are important for connectivity purposes remains constrained, in particular by infrastructure and investment needs. In order to allow sufficient time for that transition16, and in light of the need to ensure territorial continuity, connectivity and affordability of essential maritime services, the duration of these derogations should be extended for a limited period of time. Given the specific technical and operational challenges associated with the decarbonisation of ice-class ships, the Commission should review, before the expiry of the derogation applicable to those ships, the progress made in the deployment of suitable low- and zero-emission technologies and assess the appropriateness of extending that derogation beyond 31 December 2035.

(26) In order to support global climate action and facilitate the pricing of greenhouse gas emissions in third countries, support should be provided to third countries in respect of emissions that are not already subject to surrender obligations under Directive 2003/87/EC. The Commission should be empowered to adopt delegated acts to amend, where relevant, the geographical scope laid down in Article 3ga(1) of Directive 2003/87/EC for maritime emissions released during voyages between the Union and the third country to which support is provided. In order to supplement Directive 2003/87/EC, the Commission should also be empowered to adopt delegated acts to lay down rules on the operation of that support to third countries. This would also facilitate the implementation of the ETS linking agreement being prepared with the United Kingdom.

(27) With a view to addressing unclear implementation situations and diverging Member States' practice, as well as providing means to address continuous non-compliance with Directive

---

16 European Commission: Directorate-General for Climate Action and Ricardo, *Electric vessels and wind-assisted propulsion systems- opportunities for the EU maritime industry and value chain – Final report*, Publications Office of the European Union, 2026, https://data.europa.eu/doi/10.2834/7505429.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

2003/87/EC, it is necessary to clarify existing rules as regards the granting, suspension and withdrawing of greenhouse gas emissions permits by competent authorities, and further develop them to enhance harmonisation. In order to ensure harmonised conditions for the implementation of Article 6 of Directive 2003/87/EC, as regards the granting, suspension and withdrawing of greenhouse gas emissions permits by the competent authorities, the Commission should be empowered to adopt implementing acts. Such powers should be exercised in accordance with Regulation (EU) No 182/2011.

(28) Directive (EU) 2023/959 of the European Parliament and of the Council17 which amended Directive 2003/87/EC by extending the activity in Annex I to Directive 2003/87/EC on transport by pipeline of greenhouse gases for the purpose of storage, to all means of transport. The development of this activity has demonstrated the complexity in appointing the administrating authority for cases of cross-border transport, making it necessary to clarify which Member State should grant permits to the operator of the CO2 transport infrastructure. To privilege clarity and thus speed up permitting, a clear rule, applicable in all cases, should be established, whereby the competent authority should be the one of the Member State where the CO2 is collected, which will be where it is captured. The competent authority should be responsible for that CO2 transport until the CO2 is collected by an operator in another Member State. Member States where the CO2 only transits should not be involved in the permitting of the CO2 transport activity.

Agence Europe

17 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 (OJ L 130, 16.5.2023, ELI: http://data.europa.eu/eli/dir/2023/959/oj).

Obtenu pour vous par
Obtained by
agence europe

(29) Achieving the Union's emission reduction target of -90% by 2040 as compared to 1990 levels requires adjusting the rate of reduction in the emissions of the sectors covered by the EU ETS from 2031. The linear reduction factor provided for in Article 9 of Directive 2003/87/EC should therefore be adjusted.

(30) The rate of reduction should also take account of the provisions of the European Climate Law regarding the use of high-quality international credits as adequate contribution towards the EU 2040 climate target, starting in 2036. International credits should be integrated in the future climate legislation using high-quality and integrity credits. The use of credits should support both the EU and third countries in achieving GHG reductions compatible with the Paris Agreement. High credit integrity must be ensured and where appropriate the rules developed under Article 6.4 of the Paris Agreement may be complemented. The specific role and deployment of international credits will be based on an impact assessment and subject to the development of Union law setting robust and high integrity criteria and other safeguards. In view of the establishment of a facility for the purchase of international credits to reduce the overall need for domestic action by up to 5 percentage points, the target emissions reductions for the EU ETS should be in line with an overall EU-wide domestic ambition of -90% until 2035 and of -85% from 2036 to 2040. This should be reflected through a lower linear reduction factor of the EU ETS from 2036, and allowances should be put aside for the purchase of the amount of international credits that correspond to the reduction of the ambition in the EU ETS. The Commission should report to the European Parliament and to the Council on the development of a high-quality and high-integrity international credit market, taking into account the criteria set out in Regulation 2021/1119/EU, and the contribution of these credits to the climate ambition of the activities listed in Annex. Subject to this report, the linear reduction factor from 2036 should revert to a trajectory for ETS sectors aligned with an EU domestic reduction of 90% by 2040 in the event that high-quality and high-integrity, cost-effective international credits are not available.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(31) Carbon removals are introduced as a flexibility in the European Climate Law to allow the EU to reach its 2040 climate target in a more cost-efficient way, as some emissions will be more cost-efficient to offset through removals than to abate them. In particular, they can contribute to compensate remaining hard-to-abate GHG in sectors covered by the EU ETS. In that context, the EU ETS should contribute to their uptake and financing, including because they can be generated by activities already covered by the EU ETS. Foregoing the flexibility provided by permanent carbon removals would be at the cost of the EU's competitiveness and the environment in the medium to long term. Together with other adjustments to the system, such as to the total emissions cap and the Market Stability Reserve (MSR), the integration of permanent carbon removals can contribute to cost containment and improving liquidity in the EU ETS as its cap shrinks. The integration of permanent carbon removals can also provide an avenue to incentivise the development and deployment of nascent negative emissions technologies. Beyond 2040, alternative or complementary mechanisms to generate permanent removals may need to be developed to reach net-zero in 2050 and net-negative emissions thereafter. All adjustments to the cap set out in Article 9 should take into account the emissions of the EEA and the European Free Trade Association (EFTA), as well as regarding the integration of domestic permanent carbon removals.

(32) The integration in the EU ETS rests on the basic principle that the cancellation of a removal unit replaces the surrendering of an emission allowance, which represents the payment of the price for having emitted a tonne of CO2. As a consequence, only permanent removals can be integrated in the EU ETS. In addition, it is preferrable to integrate only those removals for which reversals are subject to monitoring and the surrendering of allowances in the EU ETS.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(33) The current price-difference between permanent carbon removals and allowances means that permanent removals will need to be supported in a predictable manner, to ensure that their generation in line with the additional emission space that is created in the ETS through the issuance of allowances. In addition, because they are novel instruments, their integration must protect the EU ETS from uncertainty and must guarantee the environmental integrity of the units that are used to compensate an emission in the EU ETS. Therefore, removals should be integrated in the EU ETS by the Commission. To that end, the total quantity of allowances in the EU ETS should be increased by a number of allowances that should be allocated to the Commission for the purchase of an equivalent amount of permanent carbon removals to offset the newly created allowances. The linear reduction factor should not apply to this quantity of allowances, at it is equivalent to the amount of removals that should be purchased. In addition to these newly created allowances, further allowances should be assigned to the Commission to generate revenues through their auctioning for the purchase of the permanent carbon removals, in view of the expected cost differential between allowances and carbon removals. Where fewer allowances are required for financing carbon removals than expected, the unused allowances should be integrated back in the Union-wide quantity of allowances referred to in Article 9 of Directive 2003/87/EC. The net target of the EU ETS is the equivalent of the gross emissions minus the permanent carbon removals that are subject to integration.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(34) To facilitate the use of permanent carbon removals by operators, shipping companies and aircraft operators, these should be allowed to compensate their own fossil emissions with their biogenic CO2 emissions captured and permanently stored, which are certified as permanent carbon removal units in accordance with the methodologies for the certification of domestic permanent biogenic emissions capture with carbon storage (BioCCS) removals established under Regulation (EU) 2024/3012 of the European Parliament and of the Council18. To avoid double counting, carbon removals units used for the purpose of compensating own emissions should be cancelled from the Union Registry provided for in Article 12 of Regulation (EU) 2024/3012 of the European Parliament and of the Council19. This compensation mechanism cannot entail the generation of negative emissions or the of obtaining allowances. It should lead to an adjustment of the allowances assigned for the purchase of carbon removals and to the carbon removals that are to be purchased, to prevent the total emission space from increasing beyond the limit implied by the integration through the purchasing programme.

(35) All adjustments to the cap set out in Article 9, as well the amount of domestic permanent carbon removals to be integrated, should take into account the emissions of the EEA and the European Free Trade Association.

Agence Europe

---

18 Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products (OJ L, 2024/3012, ELI: http://data.europa.eu/eli/reg/2024/3012/oj).

19 Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products (ELI: http://data.europa.eu/eli/reg/2024/3012/oj).

Obtenu pour vous par
Obtained by
agence europe

(36) Regulation (EU) 2024/3012 of the European Parliament and of the Council establishes a framework to certify carbon removals, carbon storage in products, and carbon farming in the Union. **[…] The Commission is progressively developing the methodologies for permanent carbon removals under this Regulation. Together with the methodologies for BioCCS and DACCS the Commission has adopted methodology for biochar in Commission Delegated Regulation (EU) 2026/285 of 3 February 2026 of the European Parliament and of the Council*. In addition, upcoming methodology will address mineralisation and enhanced rock weathering, amongst other permanent carbon removals pathways. T**he Commission should examine the possible **[…] eligibility of other** permanent removals in the context of the review of this Directive **as part of its report due in 2034 assessing the progress of the programme.**

(37) The EU ETS is a meaningful tool for climate financing. Since 2013, it has generated substantial revenues, the majority of which are allocated to Member States, and it has allocated free allowances of equally substantial value. To fully realise its potential, the revenues from the ETS must be deployed strategically to accelerate decarbonisation and thus bolster industrial competitiveness. While Member States have been required since June 2023 to allocate all ETS revenues to climate and energy purposes and to ensure transparency, current spending patterns reveal shortcomings. Critical areas, such as industrial decarbonisation—which accounts for a major share of EU emissions—receive disproportionately low funding, as do other areas that are essential for decarbonisation. Furthermore, some investments risk undermining climate neutrality by perpetuating dependencies on carbon-intensive technologies, thereby creating long-term lock-in effects.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(38) Industrial decarbonisation will require direct or indirect electrification of processes currently using fossil fuels including related investment needs of the energy system. The Electrification Action Plan[20] includes concrete measures to enable and accelerate affordable electrification of industry. Preparing the energy system for the additional demand from industrial decarbonisation projects, particularly around industrial clusters, is an urgent priority. Using national ETS revenues to support investments into strengthening the grid, into electricity storage and into other options that enhance power system flexibility as well as into accelerated planning and permitting at local and regional level will provide industry with affordable and reliable options to use electrification in order to decarbonise.

(39) To address those aspects, the Member States should be required to spend a minimum share of their revenues in priority purposes, focused on the decarbonisation of the ETS sectors, including related investment needs of the energy system. This should include investments in industrial decarbonisation (such as in steel, chemicals and fertilisers - which play an important role to ensure food security) - through electrification, carbon capture, utilisation, and storage, and other clean technologies; clean energy sources and grid infrastructure; low-carbon transport (particularly in maritime and aviation); waste management decarbonisation and circularity measures to decarbonise ETS sectors; the development of lead markets for low-carbon and circular products (such as bio-based fertilisers, bio-based chemicals and green steel) which also benefit end-users such as farmers; and research and innovation in these fields. Priority should be given to the electrification of industrial process heat where technically feasible, enhancing energy security. Regarding fertilisers, investment should in particular support end-users in the uptake of bio-based, organic and circular fertilisers, in line with the Fertilizer Action Plan[21]. As regards nature-based solutions contributing to decarbonisation, Member States should take into account the priorities, measures and financing needs identified in national restoration plans established pursuant to Regulation (EU) 2024/1991. Additionally, investments should only be possible where they are aligned with the Union's long-term climate goals, excluding those prolonging reliance on fossil fuels in power generation. Member States should also have the option to use the revenues to top-up ETS financing mechanisms.

---

20 [Full reference to be added] COM(2026)595.

21 COM/2026/310 final.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(40) Transparency and visibility regarding the use of auction revenues is essential to ensure the acceptability and credibility of the Union's climate policies. Member States should be obliged to publicly communicate the origin of ETS-funded measures through multiple channels, such as project documentation and public displays. The use of the standardised EU label will be a key tool to achieve this visibility. Such reforms on the use of auction revenues should be complemented by amendments to Regulation (EU) 2018/1999 of the European Parliament and of the Council[22], which will require Member States to integrate their planned use of ETS auction revenues into their National Energy and Climate Plans (NECPs). This ex-ante planning obligation will ensure strategic alignment with national and EU-wide climate targets, facilitate greater stakeholder participation and improve monitoring, public scrutiny, and visibility.

(41) Member States report yearly to the Commission on the implementation of Directive 2003/87/EC pursuant to Article 21 thereof. On this basis, the Commission publishes a report on the functioning of the European carbon market. The use of the reported data in this way should therefore be clarified through the addition of a reference to Article 21(1) in Article 10(5) of that Directive. In order to align with existing practice, a yearly reporting deadline of 30 June should be set. The Commission should publish the report on the functioning of the European carbon market within six months of receiving the relevant information and reports from the Member States. Besides the publishing of this report, the self-standing reporting obligation for the Commission under Article 21 should be deleted to reduce administrative burden. The exchange of information organised by the Commission pursuant to Article 21(5) should no longer concern the use of Emission Reduction Units from Joint Implementation (JI) and Certified Emission Reduction from Clean Development Mechanism (CDM) in the EU ETS as the CDM and JI have been replaced with the new market mechanism established under the Paris Agreement.

---

22 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, pp. 1–77, ELI: http://data.europa.eu/eli/reg/2018/1999/oj).

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(42) To mitigate the risk of carbon leakage and support the competitiveness of electro-intensive industries, Member States should retain the possibility to grant State aid compensating for indirect emission costs passed through electricity prices, in line with Union State aid rules. For the State aid guideline post-2030, the Commission will assess how to incentivise economically viable decarbonisation, while not undermining the carbon leakage objective of the support. The emission factors used to calculate compensation should reflect the emission intensity of the relevant electricity production mix in the respective geographic area with a view to taking into consideration where possible the role of fossil and non-fossil sources in the setting of electricity prices. To streamline administrative processes, reporting on indirect cost compensation should be integrated into the broader reporting obligations on the use of auction revenues under Regulation (EU) 2018/1999.

(43) Directive (EU) 2023/959 effected the revision of the EU ETS legislative framework by introducing conditionalities for free allocation linked to the implementation of energy efficiency recommendations from energy audits, and obligations to establish climate-neutrality plans for district heating and for the 20% least efficient installations under each ETS product benchmark. Building on the experience of conditionalities relating to district heating, and in view of aligning with the climate neutrality ambition of the EU, starting from the five-year period for free allocation beginning on 1 January 2031, free allocation in the EU ETS should, as a principle, become conditional on establishing a plan to invest in decarbonisation in the EU ('Invest in EU decarbonisation plan') and to implementing decarbonisation investments that lead to increased homegrown production of decarbonised and low carbon products as well as to significant reductions in overall climate impacts, including emissions reduction. Therefore, it is appropriate to replace other specific conditionality regimes for free allocation, from 2031 onwards, by the decarbonisation investment in the EU conditionality which is being introduced for free allocation.

(44) The Invest in EU decarbonisation plan should be simple and provide a structured and transparent pathway, together with intermediate targets, for installations to align with Union-wide climate-neutrality by 2050 as provided for in Regulation (EU) 2021/1119, and should consider the impact of the measures and investments it includes on achieving significant emissions reduction. The Invest in EU decarbonisation plan and its content, should be verified in accordance with existing and well-established rules under Article 15 and be made publicly available. In addition, in order to ensure that emissions and impacts reduction occur in the EU, operators of installations applying for free allocation should be required to invest in the

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

EU an amount equivalent to the financial value of 100% of their free allocation in the relevant five-year period into decarbonisation of their activities covered by this Directive, effectively leading to significant verified reductions in emissions, within the same period. What constitutes 'significant emission reductions' should be defined by the Commission by means of delegated acts in a science-based manner and aligned with the climate neutrality objective as set out in Regulation (EU) 2021/1192. Consequently, allowances allocated for free become decarbonisation investment allowances in the EU.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(45) To minimise administrative burden and ensure alignment with the procedures leading up to the determination of free allocation to installations, it is appropriate to make full use of synergies with the well-established, highly efficient and mature process. Therefore, the Invest in EU decarbonisation plan, as a one-off exercise for five or more years, is to be submitted together with the data included in the national implementation measures pursuant to Article 11 of Directive 2003/87/EC concerning incumbent installations and together with the application for free allocation concerning new entrants. With a view to ensuring the content of measures and investments included in the Invest in EU decarbonisation plan reflects genuine emissions reduction strategy, it is appropriate to provide flexibility for their submission at a later stage together with activity-level change reports referred to in Commission Implementing Regulation (EU) 2019/1842[23]. Where appropriate, the detailed timeline for the submission of the Invest in EU decarbonisation plans should be clarified by the Commission by means of delegated acts.

Agence Europe

[23] 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, pp. 20–24).

Obtenu pour vous par
Obtained by
agence europe

(46) 80 % of the amount of free allocation for the relevant five-year period for which the application for free allocation is submitted should be allocated in annual tranches with a regular transfer of free allocation after the approval of an Invest in EU decarbonisation plan. The remaining 20 % of the amount of allowances to be allocated for free in that five-year period should only be allocated to the installation upon verification that the decarbonisation investments, which can include both **capital** expenditure ('CAPEX') and operating expenditure ('OPEX'), corresponding to the economic value of 100% of the amount of free allocation for that period, were implemented and that, based on the relevant existing and well-established annual emissions reports, those investments led to significant emissions reduction by the end of the five-year period. **Failure to implement the decarbonisation investments leading to significant emissions reduction should not impact the allocation of 80% of the amount of free allocation to be received under the relevant five-year period upon approval of an Invest in EU decarbonisation plan.** To further incentivise the long-term investment in the Union, operators should be required to return the allowances received under Article 10a(3c) first sub-paragraph, if the operator relocates or otherwise transfers its relevant activities outside of the Union. In order to further design the processes as simple and efficient as possible and reflect well-established industrial practices, while also guaranteeing the strategic investments in modernising European industries, it is appropriate for the Commission to further operationalise those rules by clearly establishing, by means of delegated acts and, in close consultation and transparently with the relevant stakeholders, the list of requirements and eligible costs to qualify as decarbonisation investments as well as the methodology for determining the economic value of the quantity of free allowances received. In order to further reduce administrative burden, maximise synergies with existing industrial practices and to fully reflect the specific circumsances of the industrial sectors covered by the EU ETS, these delegated acts should be developed in close cooperation with the industry.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(47) To minimise administrative burden and ensure robust compliance, the implementation of the decarbonisation investments in the EU and the achievement of significant emissions reduction should be verified, no later than two years after the end of the relevant five-year period, on the basis of the already-required annual emissions and activity level reports submitted in the context of the existing solid monitoring, reporting and verification processes. Any unallocated or returned allowances from the amount of free allocation under the relevant five-year period should be used in the context of free allocation in the next period.

(48) To ensure synergies with the new Investment Booster ('IB') and Industrial Decarbonisation Bank ('IDB') and the Innovation Fund, derogations to the newly established investment conditionality rules for free allocation should apply to installations selected for support under those funds. In view of simplifying procedures and avoiding additional administrative burden, it is appropriate to exempt the operators of installations from the establishment an Invest in EU decarbonisation plan, where a project in their installation was selected for the award of support under the IDB or the Innovation Fund is being implemented during the relevant five-year period for free allocation. The first 80 % of the amount of free allocation for the relevant five-year period should be allocated to the installation following the decision to award support to the project under those funds. In addition, for those installations, the investments and emissions reduction requirements conditioning the remaining 20 % of free allocation for the period should be deemed fulfilled upon the double condition that the support under the Innovation Fund starts being disbursed or physical construction concerning projects supported by the IDB or IB starts, and that it has been verified that eligible costs correspond to a volume at least equivalent to the economic value of 100% of the amount of free allocation under the relevant five-year period were invested. Given the number of operators expected to benefit from the support made available under the Innovation Fund, IDB and IB, this will automatically lead to these operators being exempt from the conditionality and, hence, further simplify their access to free allocation.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(49) To recognise their efforts and reduce administrative and compliance burdens for the 10 % most efficient installations setting the revised benchmark values in a sector or subsector in accordance with Article 10a(2), third subparagraph of Directive 2003/87/EC, for zero and low emitting installations, and for small installations remaining voluntarily under the ETS, it is appropriate to exempt them from the investment conditionality rules for free allocation.

(50) The exempted installations should be eligible for the full amount of free allocation under the five-year period in which they apply for free allocation, without being required to establish an Invest in EU decarbonisation plan or to implement investments in the EU leading to significant emissions reductions. When determining by means of delegated acts the requirements for installations to qualify as zero emissions or low carbon, the Commission should take into account the estimated sector specific emissions reductions, the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119, as well as the available low carbon technologies and other abatement options available for each sector, including the net-zero technologies listed in Article 4 of Regulation (EU) 2024/1735[24].

Agence Europe

[24] Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 (OJ L, 2024/1735, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1735/oj).

Obtenu pour vous par
Obtained by
agence europe

(51) To reflect sectoral capacities and accommodate, on the one hand, uneven access of individual installations to decarbonisation solutions, including access to infrastructure such as electricity grids of sufficient capacity, green hydrogen and carbon dioxide transport infrastructure, and, on the other hand, geographic disparities, it should be permitted to leverage collective efforts towards decarbonising production processes between different installations, including for installations in multiple Member States. It is therefore appropriate to allow for the conditionality requirement concerning the investments in significant emissions reductions in the EU to be fulfilled via pooling through a joint decarbonisation investment agreement between several ETS installations. **This includes pools that can extend along the value chain, as well as ETS installations within the same group or across different groups of companies. This should also allow clusters of ETS installations, particularly SMEs, located near each other, to materialise decarbonisation investments with sufficient scale, support cross-regional and cross-sectoral innovation, and facilitate industrial symbiosis.** This should allow flexibility for one or more operators to fulfil the decarbonisation investment requirements on behalf of other operators that are part to the agreement. To reflect emissions and capacities of such a pool, it is appropriate to require that, in that case, the investment volume corresponds to at least 100% of the amount of free allocation allocated to all installations in the pool during the five-year period. To limit administrative burden and ensure integration within the process leading up to the establishing of free allocation to installations in the EU, such an agreement should at least apply for the five-year period referred to in Article 11 of Directive 2003/87/EC for which the installations are applying for free allocation and should be concluded before any of the installation from the pool submits an application for free allocation. A higher level of emission reduction should be required for the installation or installations that will make the investment on behalf of the pool. The Commission should further operationalise, by means of implementing and delegated acts, the details of the application procedure to form a pool, including the minimum content and detailed conditions for the application to form a pool, the detailed timeline for its submission to the competent authority, and the details of the distribution of liability and obligations between operators that form a pool. This pooling provision will also significantly reduce administrative burden on the operators that pool together, because any conditionality-related monitoring and reporting obligation will be carried out only by the designated installation or installations within the pool.. This should allow flexibility for one or more operators to fulfil the decarbonisation investment requirements on behalf of other operators that are part to the agreement. To reflect emissions and capacities of such a pool, it is appropriate to require that, in that case, the

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

investment volume corresponds to at least 100% of the amount of free allocation allocated to all installations in the pool during the five-year period. To limit administrative burden and ensure integration within the process leading up to the establishing of free allocation to installations in the EU, such an agreement should at least apply for the five-year period referred to in Article 11 of Directive 2003/87/EC for which the installations are applying for free allocation and should be concluded before any of the installation from the pool submits an application for free allocation. A higher level of emission reduction should be required for the installation or installations that will make the investment on behalf of the pool. The Commission should further operationalise, by means of implementing and delegated acts, the details of the application procedure to form a pool, including the minimum content and detailed conditions for the application to form a pool, the detailed timeline for its submission to the competent authority, and the details of the distribution of liability and obligations between operators that form a pool. This pooling provision will also significantly reduce administrative burden on the operators that pool together, because any conditionality-related monitoring and reporting obligation will be carried out only by the designated installation or installations within the pool.

(52) Rules governing the update of the benchmark values need to be established for the allocation periods from 2031 to 2040. As already applied under the previous periods, the updated benchmark values should be determined on the basis of data from the years 2007 and 2008, to be updated in line with observed improvement through applying a factor that represents the best assessment of progress across sectors over the period and considering the average performance of the 10 % most efficient installations in the relevant years. Robust, objective and verified data from installations, submitted pursuant to Article 11 of this Directive should be used as reference for the determination of the average performance of the 10 % most efficient installations so that benchmark values reflect the actual rate of improvement. Information submitted by a third country for installations in its territory in accordance with an agreement concluded pursuant to Article 25 may also be taken into account. To ensure appropriate protection against the risk of carbon leakage and ensure sufficient free allocation levels better reflecting the actual decarbonisation pathway of industrial sectors for the period from 2031 to 2040, the same minimum update rate percentages as for the ongoing period from 2026 to 2030 should apply, while the maximum update rate percentages for the same period should be updated to reflect this necessity. Therefore, the benchmark values should be adjusted in respect of each year between 2008 and the middle of the periods from 2031 to

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

2035 and from 2036 to 2040, as applicable, in a range comprised between a minimum update rate of 0,3 % and a maximum update rate of 2 %, leading, in the period from 2031 to 2035, to an improvement of 7.5 % to 50 % respectively compared to the value applicable in the period from 2013 to 2020.

(53) To better reflect available emissions reduction capacities in different industrial sectors, it is appropriate to establish sector-specific heat and fuel benchmarks ('fallback benchmarks'). To do so, it is necessary to complement the existing empowering provision and allow the Commission to define such sector-specific fallback benchmarks in the Union-wide ex-ante benchmarks of Annex I to Delegated Regulation (EU) 2019/331, their system boundaries and the reference values for the determination of the annual update rate.

(54) In the event that demand for free allowances triggers the need to apply a uniform cross-sectoral correction factor before 2040, the share of allowances to be auctioned over the ten year period beginning on 1 January 2031 should be reduced by up to 4 % of the total quantity of allowances.

(55) Leftover allowances from the free allocation buffer established in Article 10a(5a) of Directive 2003/87/EC should be used to support the Innovation Fund and to support the scale-up and roll-out of more mature technologies in energy-intensive industries through the Investment Booster and the second phase of the Industrial Decarbonisation Bank. Where the allowances available are not sufficient to allocate 400 million allowances to the Investment Booster, these should come from the leftover allowances from the new entrants reserve provided for in Article 10a(7) of Directive 2003/87/EC. To ensure that the size of the new entrants' reserve is sufficient for the upcoming phase of the EU ETS, it should be allocated allowances from the phase-out of free allocation due to the phase-in of carbon border adjustment mechanism (CBAM) and allowances should not be returned to the MSR.

(56) To avoid penalising new entrants and therefore limiting possible decarbonisation investments, it is appropriate to delete the application of the linear reduction factor to allocations to new entrants under Article 10a(7) of Directive 2003/87/EC.

(57) To ensure the correct implementation of rules related to the allocation of allowances and equal treatment of operators and to prevent windfall profits, it should be clarified that competent authorities are under an obligation to require the operator to return any excess

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

allowances and to instruct the national administrator to transfer returning excess allowances to the EU Allocation Account.

(58) In accordance with the commitment set out in Article 4(5), point (m) of Regulation (EU) 2021/1119, and considering a slower phase-out pathway for free allocation of allowances from 2028 onwards to support decarbonisation, investment and employment in the Union, while minimising the risk of carbon leakage, additional conditional free allocation should be provided for CBAM sectors. To provide for this in a manner that is compliant with international trade rules and takes into account the decarbonisation of installations in the Union, while minimising additional administrative burden, it is appropriate to reduce the phase-out of free allocation in those sectors, with free allocation being phased out fully by the end of 2037. In view of ensuring an achievable phase-in of CBAM factor in free allocation to CBAM goods that will be newly included as a result of future revisions of Regulation (EU) 2021/1119, it is appropriate to provide for specific phase-out rates for those new CBAM goods, applying as of the five-year period for free allocation that starts after their inclusion in the scope of Annex I to that Regulation. In line with this Directive introducing investment conditionality rules for free allocation in the EU ETS from 2031 onwards, those conditionality rules should apply from 2031 onwards also for free allocation to installations to which the CBAM factor is applied.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(59) To maintain adequate protection against the risk of carbon leakage, transitional measures to support certain energy intensive industries in the event of carbon leakage should continue applying until 31 December 2040, except where specific phase-out provisions apply. Free allocation to district heating should be phased out by equal amounts starting in 2030 in view of achieving zero free allocation in 2040.

(60) Achieving the EU's 2040 climate target necessitates urgent and deep emission reductions in industry, particularly in energy-intensive sectors, where progress has thus far relied predominantly on energy efficiency gains rather than transformative decarbonisation. At the same time, to drive industrial transition substantial investments are required. Yet, the existing carbon price signal, even when combined with regulatory measures on renewables and energy efficiency, has proven insufficient to incentivise industrial decarbonisation investments, thereby justifying the allocation of allowances to a dedicated EU-level funding instrument, the Industrial Decarbonisation Bank, designed to bridge this gap and accelerate industrial decarbonisation, including through electrification, and enhance Europe's competitiveness. Member States should be allowed and encouraged to make additional contributions from ETS allocations and related revenues to the Bank to further accelerate industrial decarbonisation in line with national priorities.

(61) The Innovation Fund should continue to support innovative low-carbon technologies across all eligible sectors, including those covered by the CBAM, to ensure that breakthrough solutions reach commercial scale, bridging the gap between demonstration and market readiness in the transition. It should therefore continue to focus on innovation, supporting early-stage, high-risk technologies, while the Industrial Decarbonisation Bank (IDB) should support the scale-up and roll-out of more mature technologies in energy-intensive industries while building resilient value chains and contributing to energy system integration. Electrification will be a prime decarbonisation pathway as outlined in the Electrification Action Plan. Alignment with the requirements of the Net-Zero Industry Act and the Industrial Accelerator Act, including regarding EU content, as well as circular economy principles, should be ensured. With its comprehensive approach from abatement to transformation and its more focused sectoral scope, the Industrial Decarbonisation Bank should support both the decarbonisation of existing installations and the deployment of new low-carbon or zero-emission production capacity, including processes that substitute carbon-intensive industrial products or methods, also by bio-based material, products and methods, and as such can also result in the generation of permanent carbon removals. In this context, also combustion

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

activities below 20 MW should be able to benefit from the support. In order to preserve the Union's capacity to support the development, scale-up and deployment of innovative low-carbon technologies, it is necessary to ensure that the overall financial means expected for the Innovation Fund remain available. 50 million allowances from the free allocation buffer up to 2030 were envisaged to contribute to the financing of the Innovation Fund, thereby providing an essential planning assumption for the timely preparation and implementation of projects towards the end of this decade. By 2028, the Innovation Fund should have committed almost all of its available resources and continued support for such projects requires timely replenishment from the Member States' auction volume and a predictable funding basis, notably where, due to the operation of the rules on free allocation, part of the allowances originally envisaged from the free allocation buffer available for the Innovation Fund would no longer be available for that purpose.

(62) The first phase of the Industrial Decarbonisation Bank should be the ETS Investment Booster financed by 400 million allowances. To fast-track decarbonisation investments through speed, the ETS Investment Booster, operating on a 'first in, first served' basis, should provide fixed carbon premia per tonne of CO_2 avoided **which should** be paid in ETS allowances. It should also ensure solidarity by ringfencing allowances for Member States facing higher investment challenges due to lower income or greater abatement needs. Administratively set fixed carbon premia, should ensure economically attractive returns, compensate for commercial risks, and secure additional private financing, while requiring strict completion deadlines and guarantees thereby enhancing business certainty upfront and enabling faster implementation. In order to ensure the best value for money, the Commission should develop Terms and Conditions for differentiated decarbonisation pathways, setting inter alia the fixed carbon premium rate per tonne of CO_2 avoided, based on a funding gap analysis using the best available knowledge regarding the specific type and cost of the technologies supported as well as taking into account the need to ensure the proportionality of the support. The Commission should periodically assess those Terms and Conditions in the light of the experience gained and market developments.

(63) The Investment Booster should be followed by a second phase whereby the Industrial Decarbonisation Bank would continue to support the scale-up and roll-out of mature decarbonisation technologies for energy-intensive industries, including through guaranteeing a level of the carbon price, thereby de-risking investments and ensuring long-term revenue stability for decarbonisation efforts through mechanisms such as Carbon Contracts for

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Difference (CCfDs) or fixed carbon premia , disbursed upon verified GHG abatement, and accelerating industrial decarbonisation. In implementing the Industrial Decarbonisation Bank phase 2, the Commission should strive to ensure effective, quality-based geographical coverage across the Union. To boost Europe's industrial decarbonisation and turn every euro into investment early-on, the Industrial Decarbonisation Bank must move fast. Once the Investment Booster has fully deployed its allowances, the Industrial Decarbonisation Bank should open Phase 2, ensuring continued firepower for industrial decarbonisation well before 2031.

(64) To ensure coherent and reinforced support for industrial decarbonisation, enhancing both climate and competitiveness objectives, the Commission should maximise synergies between the Industrial Decarbonisation Bank (IDB) and the European Competitiveness Fund (ECF). To this end, the proposed 'competitiveness seal' should be awarded to projects fulfilling all requirements for support under the Industrial Decarbonisation Bank, thereby streamlining access to complementary funding.

(65) The Modernisation Fund plays a critical role in ensuring fairness and solidarity by supporting lower-income Member States in their transition to a climate-neutral economy. To enhance its effectiveness and align it with the Union's 2040 framework targeted adjustments are necessary. Sized at 2,0% of the overall ETS cap, it will ensure a balanced allocation of resources, optimising support where it is most needed while reflecting the evolving economic capacities of Member States. To accelerate industrial decarbonisation required to meet the 2040 climate target, an additional 0.5% of the ETS cap should be allocated to beneficiary Member States through the Industrial Decarbonisation Bank. Together with an expanded scope, this will provide financial support to a broader range of innovative, scalable solutions critical to reducing emissions in energy-intensive industries and power generation, including CCS and CCU and electrification, while ensuring efficient use of auction revenues. In addition, allowances available to the Modernisation Fund beneficiaries via 10% redistribution for reasons of solidarity should be channeled through the Modernisation Fund to maximise their impact. For the same reason, the other Member States benefitting from the 10% solidarity redistribution should use those allowances for priority areas for spending of auction revenues. Member States should further be permitted to voluntarily transfer additional allowances from their auction volumes to the Modernisation Fund, enhancing their flexibility to direct resources toward impactful decarbonisation efforts. The eligibility criteria and distribution key should be updated based on the latest available data (2022–2024), including a

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

75% GDP per capita threshold and emissions intensity. This will reflect current economic and emissions data, ensuring that the Member States with the greatest transition needs continue to benefit. The Modernisation Fund's scope should be broadened to further facilitate industrial decarbonisation, including, where relevant, support for investments in CCS, CCU, electrification and production of affordable low-carbon fertilisers. In order to protect the financial interests of the Union, support under the Modernisation Fund should be implemented in accordance with Regulation (EU, Euratom) 2020/2092[25].

(66) This Directive should include strong safeguards concerning the principles of the rule of law as set out in Article 2(a) of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council to protect the resources of the Modernisation Fund. Should there be breaches of these principles, appropriate measures should be taken, applying the procedure set out in Article 6 of Regulation (EU, Euratom) 2020/2092.

Agence Europe

25 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 433I, 22.12.2020, p. 1).

Obtenu pour vous par
Obtained by
agence europe

(67) In line with Article 28b(3) of Directive 2003/87/EC, the extension of the geographic scope of application of the EU ETS in respect of aviation activities should be accompanied by the possibility for aircraft operators to deduct costs incurred from Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) offsetting on extra-European routes from the EU ETS surrender obligation, in order to avoid double charging. Harmonised rules should apply in relation to such deductions, and therefore, for the calculation of the deduction the values of credits and allowances published in a Carbon Market Report adopted pursuant to Article 10(5) of Directive 2003/87/EC should be used. The value of credits eligible under Article 11a should be based on the best available price indices.

(68) The geological storage of CO_2 in secure, permanently monitored sites is essential to enabling large-scale emissions reductions for industry. Proximity and accessibility of storage sites in third countries to EU industrial hubs could reduce transportation costs, minimise leakage risks and accelerate the deployment of CCS compared to more distant or less developed storage options, thereby facilitating this decarbonisation pathway for EU industry. However, storage in third countries should be only recognised when sufficient safeguards regarding monitoring, reporting, verification (MRV) and with respect to the rules set out in Directive 2009/31/EC exist; with a linked system to the EU ETS pursuant to Article 25 on a reciprocal basis as from 2031 and providing the sites are not used for enhanced oil or gas recovery.

(69) Under the current EU ETS framework, CO_2 emissions are accounted at the point of capture (upstream), meaning that installations capturing CO_2 must surrender allowances for the full volume of emissions generated, except where the CO_2 is permanently stored geologically or in products. This does not contribute to achieving the objectives of the EU's Industrial Carbon Management strategy, which seeks to scale up CCU as a key decarbonisation pathway for hard-to-abate sectors like cement, steel, and chemicals and to ensure the availability of alternative carbon feedstocks. The inclusion of waste incineration means that most stages of the life of a product in which captured carbon is used are subject to carbon pricing, allowing the accounting of emissions to be moved at the point of their release from products into the atmosphere without a high risk of under accounting. As a result, in those cases where carbon dioxide is captured and used in intermediate or final products from which the carbon is expected to be re-emitted in activities already covered by the EU ETS, such as synthetic fuels, chemicals, or other industrial feedstocks, the obligation to surrender allowances should be deferred—rather than eliminated—until the CO_2 is released in a process listed in Annex I (downstream). Conversely, when CO_2 is used directly without binding its carbon chemically

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

in a product, it should continue to be accounted upstream at the point of capture as the eventual release of that CO_2 will take place outside of the EU ETS, in agri-food, pharmaceuticals, fire extinguishers or other similar applications. The point of accounting of captured carbon embedded in synthetic fuels should take place when these are distributed (midstream), instead of at point of combustion of synthetic fuels in industrial facilities or in the transport sector. To ensure complete coverage of all carbon dioxide emissions of the carbon capture and utilisation chain, the ETS scope should be extended to the capture of carbon for use, captured carbon processing, liquefaction and similar services, and the transport of captured carbon for use, except for CO_2 for direct utilisation The Commission should be empowered to establish a list of those CCU applications from which the carbon is expected to be re-emitted in activities already covered by the ETS. In addition, the permanent capture of carbon dioxide in physical objects that are not products, should also be recognised. Due to the uncertainty regarding the end-of-life treatment each of type of utilisation, the Commission should also be empowered to establish de minimis thresholds for the risk of remission outside of the EU ETS and may introduce measures, such as partial surrender requirements, to address cases where the near threshold is exceeded.

(70) Emissions from municipal waste incineration installations are substantial and have been subject to a monitoring, reporting and verification obligation since 2024, with a requirement to assess by 31 July 2026 the feasibility of its full inclusion in the EU ETS. On the basis of this assessment, it is considered appropriate and feasible to amend Directive 2003/87/EC to include emissions from municipal waste incineration installations in the EU ETS. The extension of the EU ETS to municipal waste incineration, as part of a comprehensive approach with strengthened circular economy policies under Regulation (EU) […./..] of the European Parliament and of the Council Circular Economy Act[26] and complemented with enabling conditions, incentivises economy-wide decarbonisation, circularity of materials and carbon, and a level playing field within and between sectors. As such, the inclusion of municipal waste incineration in the EU ETS contributes to the ambitions set out in the Competitiveness Compass and the Clean Industrial Deal to decarbonise the economy, accelerate the transition to more circularity, and establish a clear link between incentives for decarbonisation and circularity, increasing the EU's economic security, resilience and competitiveness. The carbon price signal complements circular economy policies by

---

26 [OJ reference to be added once adopted].

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

financially incentivising and supporting the business case for carbon capture as a main decarbonisation pathway for the sector towards the 2050 economy-wide climate neutrality objective, reducing fossil emissions from incineration while fostering permanent carbon removals from biogenic emissions, supporting economy-wide decarbonisation. The carbon price signal on incineration further reinforces the business case for more circularity of materials, reducing GHG emissions from waste disposal and generating recycled materials displacing more carbon-intensive virgin materials. Furthermore, an extension of the EU ETS levels the playing field for industrial installations and clean energy production by harmonising the carbon price signal with co-incineration, power generation and district heating production already covered under the EU ETS.

(71) The carbon price signal and circular economy policies are mutually reinforcing. The hierarchical principles of waste management, as established in the EU Waste Framework Directive 2008/98/EC[27], prioritise prevention, reuse, recycling, and recovery over disposal, including incineration, and emphasise the need to reduce the environmental impact of waste at every stage of its lifecycle. The carbon price will complement regulatory and fiscal policies with a harmonised incentive and support for waste management in line with the higher steps of the waste hierarchy through improved waste prevention, preparing for reuse, separate collection, sorting and recycling. More circularity in turn reduces GHG emissions from waste management and displaces more carbon-intensive virgin materials. However, carbon emissions generated during the incineration of waste are not solely determined by the incineration process and the pre-treatment carried out by operators. These emissions are also influenced by upstream activities, including the availability and utilisation of recycling, reuse, and composting infrastructure; the effectiveness of separate collection schemes for recyclable and recoverable materials; the extent of separation at source by households, commercial actors, and public authorities; the consumption patterns of products and materials; and the design and lifespan of goods. Therefore, complementary waste policies under Regulation (EU) […./..] [Circular Economy Act] will contribute to ensure a comprehensive approach by stimulating the single market and demand for secondary materials and circular products, supporting investment in recycling capacity, reducing the landfilling and incineration of used

---

27 Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

raw materials, and rolling-out upstream producer-oriented policies such as eco-design requirements and strengthened Extended Producer Responsibility.

(72) A new activity for waste incineration and co-incineration should be established in Annex I. The installations covered by the scope of this activity should be defined in line with the definition of waste incineration plants and waste co-incineration plants in Directive 2010/75/EU of the European Parliament and of the Council, for non-hazardous waste. This new activity includes emissions from co-incineration, which were already covered by Directive 2003/87/EC as part of the activity 'Combustion of fuels'[28], so that the incineration and co-incineration of waste can be part of a single activity. In addition, units for the incineration of municipal waste should be included in the greenhouse gas emission permits of an EU ETS activity. To this end, the current exemption of such units should be deleted in point 5 of Annex I to Directive 2003/87/EC. The recovery of waste through chemical recycling activities, including thermal treatment processes such as pyrolysis or gasification, is not covered by the extension of the scope of the EU ETS to the extent that the substances resulting from the treatment are not subsequently incinerated. To ensure regulatory consistency, accommodate the specific characteristics of waste as a feedstock, and promote environmental integrity through robust and comprehensive coverage avoiding threshold effects from diversion to smaller, less efficient installations, the capacity threshold for this activity should be aligned with Annex I, point 5.2.(a) of Directive 2010/75/EU as installations with a capacity exceeding 3 tonnes per hour . Implementing Regulation (EU) 2018/2066 should be reviewed and updated accordingly regarding the monitoring and reporting rules for emissions from municipal waste incineration installations.

(73) Hazardous waste incineration, meaning incineration or co-incineration plants predominantly treating hazardous waste, should remain excluded from the EU ETS as the carbon price signal is not expected to incentivise cost-effective decarbonisation. The strict regulatory, technical and operational requirements limit alternative treatment options for hazardous materials that cannot be safely recycled, recovered, or treated by other means. In addition, operators do not have significant opportunities for permanent carbon removal generation due to the limited

---

28 In line with the interpretation of the Commission set out in *Guidance Document No. 0: Guidance on Interpretation of Annex I of the EU ETS Directive (excl. aviation and maritime activities)*: https://climate.ec.europa.eu/document/edc93136-82a0-482c-bf47-39ecaf13b318_en.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

share of biogenic carbon in hazardous waste streams. The risk of municipal waste diversion to hazardous waste incineration installations is constrained by the prevailing regulatory framework, technical and operational differences in the incineration process, and the associated high incineration cost for hazardous waste incineration.

(74) To ensure a smooth transition of the sector in the EU ETS, the surrendering of allowances by municipal waste incineration installations that become subject to the system from 2031 onwards should be gradually introduced with respect to verified emissions reported for the period 2031 to 2034. This staged integration should not apply to installations currently already included in the EU ETS. Several reasons support a staged integration of the compliance obligation rather than immediate full inclusion. The start from 2031 allows for technical and administrative preparation, in particular for the development of monitoring and reporting rules that are better tailored to municipal waste incineration, including the distinction of biomass and fossil emissions. The start from 2031 combined with the phase-in allows planning and investment predictability for operators and local authorities, including for the adjustment of contractual arrangements between local authorities and incinerators. It also enables prior investment support, including through ETS revenue use, in abatement measures for installations and local authorities. Phasing-in surrender obligations for municipal waste incineration also contributes to the convergence towards the landfilling target established in Article 5(5) of Directive 1999/31/EC[29] while allowing to strengthen complementary circular economy policies at EU, national and local level to support waste prevention, reduction, collection, sorting and recycling and address landfilling, avoiding any unintended consequences in terms of waste diversion contrary to the waste hierarchy. To protect the environmental integrity of the system, the number of allowances added to the cap in respect of the sector should be proportionate to the gradually increasing surrender obligation for those years. The figures relating to the inclusion of municipal waste incineration should be derived from the data monitored and reported for the sector under Directive 2003/87/EC for 2024 in the Union and the States of the EEA and the EFTA), adjusted, from 2024 until 2031, by projections for estimated reporting data and capacity developments. The number of allowances added to the total Union-wide quantity of allowances in respect of the sector

---

[29] 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. 3–30 (ELI: http://data.europa.eu/eli/dir/2008/98/oj)

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

should be commensurate to the phase-in trajectory from 2031 to 2034, equivalent to 25% of that total number in 2031, 50% of that total number adjusted by the linear reduction factor in 2032, 75% of that total number adjusted by the linear reduction factor in 2033, and 100% of that total number adjusted by the linear reduction factor as of 2034. As from 2035, municipal waste incineration installations should surrender the number of allowances corresponding to all of their verified emissions reported in the preceding year.

(75) To further ensure a smooth transition, where a Member State has equivalent measures in place that achieve the objectives for including municipal waste incineration in Directive 2003/87/EC, a temporary opt-out possibility should be introduced until the end of 2035. To ensure compatibility with decarbonisation, material and carbon circularity and a level playing field, the option of applying that derogation should be available only where a Member State can demonstrate it meets at least two out of the following three conditions: having an equivalent national carbon tax in place with a tax rate higher than the average auctioning price for the relevant year; it is on track to achieve the EU municipal waste recycling targets under Article 11(2)(d) and (e) of Directive 2008/98/EC; and it is on track to achieve the municipal waste landfill target under Article 5(5) of Directive 1999/31/EC. To ensure stability and transparency of the system, the request, including the relevant information to demonstrate compliance with at least two out of the three conditions, should be notified to the Commission by 31 July 2029. **Conformity should be assessed by the Commission within three months of the notification. The assessment of conformity with the recycling or landfill conditions should in particular make use of the latest available periodic Waste Early Warning Report and Environmental Implementation Review, in addition to any more recent annual data reported to the Commission under the Waste Framework Directive. Where relevant, Member States may substantiate their notification request to the Commission with any relevant additional national data and information on the policy framework in place.** The temporary nature of this derogation is important to ensure compatibility with moving the accounting of emissions where carbon dioxide is captured and used in intermediate or final products (CCU) to the point of their release from products into the atmosphere while preventing a high risk of underaccounting.

(76) 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 constraints in deploying a comprehensive waste-management ecosystem at scale and distance from recycling markets, an option is provided

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

for Member States to temporarily exempt installations located in the outermost regions from the surrender obligation for waste incineration and co-incineration pursuant to Directive 2003/87/EC.

(77) To drive meaningful behavioural change at all stages of the waste value chain and ensure the effectiveness of the carbon price in fostering circularity and decarbonisation, it is important that the price signal is reflected in pricing mechanisms and channelled through targeted measures and policies with a positive steering effect offering households and non-residential actors both an incentive and a choice to avoid the cost of mixed waste disposal through waste prevention, reduction and sorting. Such measures with a proven positive impact on waste reduction, sorting and recycling include, for example, modulated gate fees, Pay-As-You-Throw, weight-based and smart bin collection schemes, deposit return schemes, or mandatory separate collection schemes for specific waste streams. Those measures should be complemented by reinforced upstream application of the polluter pays principle through measures such as strengthened harmonised Extended Producer Responsibility schemes and eco-design requirements. Member States should use revenues from emissions trading to support competent authorities, in particular local authorities, involved in the collection and disposal of municipal waste in the implementation of those circular economy measures, in order to steer waste disposal in line with the waste hierarchy, manage the impacts for households, and ensure a smooth transition for the waste sector, balancing environmental benefits and circularity with the cost of waste management as a public service.

(78) The extension of the carbon price to municipal waste incineration should be accompanied by effective measures to continue reducing landfilling and avoid unintended consequences in terms of waste diversion contrary to the waste hierarchy. This risk is mitigated by the fact that sustainable biomass emissions from incineration are zero-rated, limiting the incentive for organic waste diversion to landfilling -where it is the main source of methane- to avoid having to pay the carbon price. However, a risk of diversion of fossil-based material remains where no effective regulatory or fiscal landfill policies are in place. Therefore, effective and reinforced implementation and enforcement of policies and measures to limit the share of municipal waste landfilled to 10% or less by 2035 as established in Directive 1999/31/EC is essential. Furthermore, monitoring and reporting, as well as verification and accreditation of emissions from landfilling of municipal waste should be developed in the future to monitor the development of methane emissions following the full extension of the EU ETS to emissions from municipal waste incineration. **Monitoring, reporting and verification of**

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

landfills should cover emissions in respect of waste disposed in landfills as of the date of application of the MRV requirement. Uncertainty in the quantification of emissions from landfills remains high. Harmonised monitoring and reporting frameworks to collect standardised, robust and verified emissions data should therefore first be established to ensure a high degree of integrity in the system. The development of accurate **and proportional** monitoring and reporting rules is conditional on the development, first, of the future Best Available Techniques for Landfills to ensure environmental integrity, regulatory consistency and the use of advanced monitoring tools, including measurement and modelling methods, and second, of a comprehensive landfill register or registers to avoid circumvention and ensure its effectiveness. For this purpose, the Commission should report by 31 July 2029 whether these enabling conditions have been fulfilled for the MRV to be developed by 2031 at the point of the start of the phase-in of municipal waste incineration. In case one of these conditions have not been fulfilled, the extension of the EU ETS to landfills for MRV should be postponed from 2031 to 2034, at the point of full integration of municipal waste incineration, to allow additional time for these conditions to be fulfilled. The Commission should review Directive 2003/87/EC by 31 December 2034 in light of these developments and any unintended consequences.

(79) Carbon can be captured for storage and utilisation in installations that have emissions resulting from a mix of fossil and zero-rated sources, such as from the combustion of sustainable biomass, which is zero-rated in the EU ETS. As CO_2 from zero-rated sources and from fossil sources are treated different for the purposes of determining the compliance obligations of EU ETS, generating removals or in the production of synthetic fuels, it is necessary to establish detailed rules regarding the order of which the different types of CO_2 are considered to be captured and how to account for their emissions across the carbon capture, transport, utilisation or storage chain.

(80) In order to ensure a proper functioning and management of the EU ETS, it is appropriate to **[…] allow** the Commission **to make use of** up to 5 million allowances from the Union-wide quantity of allowances. In line with the increased number of users and the increased coverage of the EU ETS, the growing value of allowances held in the Union Registry and the increased security challenges, those revenues should in particular be used to ensure the proper functioning, management and security of the Union Registry**, including arrangements for transparency and reporting**. In line with the increased coverage of the EU ETS and changes introduced by this Directive, it is appropriate to ensure that those revenues may be used for

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

other aspects of ensuring the proper functioning and management of the EU ETS, including on implementing the rules on investment conditionality for free allocation, and operation of the facility for the purchase of high quality and high integrity international credits. Conditions, modalities and procedures concerning the use of those revenues should be detailed by the Commission in delegated acts.

(81) For coherence with the treatment of emissions from biomass that complies with the sustainability criteria and greenhouse gas emission-saving criteria for the use of biomass established by Directive (EU) 2018/2001 of the European Parliament and of the Council[30], and other zero-rated emissions in the EU ETS, carbon dioxide captured from the atmosphere or from sources with an emission factor of zero, should also have an emissions factor of zero when released in an activity in the EU ETS. **[…]** ~~31~~ As an exception, that same CO_2 should be subject to a surrender obligation when the CO_2 is leaked, vented or otherwise released from a permanent geological storage site, as the CO_2 will have received a reward as a negative emission under Regulation (EU) 2024/3012, which relies on the EU ETS for the liability for reversals.

(82) In accordance with Article 28b(2) of Directive 2003/87/EC, the Commission assessedg the environmental integrity of the global market-based measure of the International Civil Aviation Organization (ICAO). That report showed that CORSIA has not been strengthened and that states listed in the implementing act adopted pursuant to article 25a(3) of the ETS Directive represent less than 70% of international aviation emissions. Therefore, in accordance with Article 28b(3) of Directive 2003/87/EC, the scope of the EU ETS should be extended in a non-discriminatory way to cover all flights departing from an airport situated in the EEA and landing in aerodromes in third countries, no further than 5 000 kilometres from the largest aerodrome in the geographical centre of the Union. All airlines on these routes should be treated equally. Moreover, the EU ETS support for alternative fuels and for action in relation to contrails should be available to all airlines on those routes. This scope of application is around half the maximum distance of flights from the centre of Europe, taking account of analysis which indicates such routes are most susceptible to potential hub leakage.

---

30 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, pp. 82–209, ELI: http://data.europa.eu/eli/dir/2018/2001/oj).

31 **[…]**.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

This coverage should apply from 2029 rather than 2027, for a period of four years and be dependent on the review in 2032.

(83) Directive 2003/87/EC should be amended so that ICAO's CORSIA scheme is implemented into EU law from 2026 until 2035, and to ensure that aviation as a whole contributes its fair share to addressing climate change in line the objectives of the Paris Agreement. Emissions from international aviation outside Europe were to be capped from January 2021 by global market-based action, and the European Parliament and Council set out conditions for considering whether that scheme is sufficient action to tackle climate change or should be supplemented. In 2032, when the results of the functioning of CORSIA in terms of offsetting will be apparent, a review should be undertaken to assess the implementation of CORSIA by the major countries in the aviation sector for whom this is mandatory according to the CORSIA rules laid down by ICAO. In the event that CORSIA is proving to be ambitious, efficient and successful, the scope of effective carbon pricing under the EU ETS should be reduced to flights within the EEA and departing to the UK, Switzerland, to and from Gibraltar and other countries taking advantage of ETS as a service.

(84) In order to limit additional stringency linked to the geographic extension of the scope of the EU ETS in respect of aviation activities and taking into account the fact that emissions stemming from aviation activities have been on an increasing trajectory it is appropriate to increase the total number of allowances available in respect of aviation activities in proportion to the emissions newly included in the scope, taking into account the latest available information on emissions, and to reserve from those allowances for additional support for reducing aviation's climate impacts through sustainable aviation fuels, electrification and cost-effective reductions from contrails. The total number of allowances available in respect of aviation activities should nevertheless be reduced by an amount equalling the emissions deducted by aircraft operators from the surrender obligation to account for costs incurred by offsetting under CORSIA, because these emissions are no longer covered by the EU ETS.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(85) Lowering the threshold applicable to the exclusion of aircraft operators as laid down in Annex I to Directive 2003/87/EC leads to the additional inclusion of a number of smaller aircraft operators. To take into account the limited administrative capacity of such small aircraft operators, it is appropriate to increase the threshold for enabling the use of simplified reporting tools. The reporting tool provided by Eurocontrol has reached a high level of accuracy during the several years of application and continuous improvement since its introduction, accordingly it is capable of providing emission values for all aircraft operators concerned.

(86) The scope and definition of the activity "Production of hydrogen (H2) and synthesis gas with a production capacity exceeding 5 tonnes per day" under Annex I to Directive 2003/87/EC should be amended to solve recurring implementation questions and clarify the activity of production of hydrogen, also when solely produced as by-product, is covered whenever the threshold of a production capacity above 5 tonnes per day is exceeded.

(87) Emissions from flights operated by aircraft operators operating business aircraft have largely been exempted from the EU ETS because they generally operate fewer flights or emit less than the exclusion thresholds laid down in Annex I to Directive 2003/87/EC. Aircraft operators having yearly emissions on international flights less than 10.000t CO_2 are not subject to ICAO's CORSIA scheme and should therefore contribute through the EU ETS. In order to ensure that all aircraft operators contribute to climate action, it is therefore appropriate that the number of flights be no longer a criterion for the exemption from the EU ETS and the emissions threshold is reduced and simplified by having one single threshold for all types of aircraft operators. Nevertheless, in order to ensure that the additional administrative burden on competent authorities remain reasonable, it is appropriate to exempt aircraft operators with a very small level of emissions subject to the EU ETS surrender obligation, also taking into account the limited cumulative environmental benefit that their inclusion would lead to.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(88) The analysis carried out in the context of the Commission's review of the reserve show that a more gradual release of allowances from the reserve into the market in case of a shrinking market will mitigate the risk of creating price spikes in the market when the number of allowances in circulation is close to the lower threshold. A lower buffer parameter should be introduced from 2028 for a proportionate release of allowances when the total amount of allowances in circulation is between 400 **[…]** million allowances and 300 **[…]** million allowances.

(89) In order to take account of a shrinking emission trajectory and ensure that the reserve remains resilient to external shocks over time, the reference parameters of the market stability reserve should be updated for intakes and releases from the reserve to be proportionate to market developments. To that end, the upper threshold, lower threshold and corresponding buffers and the release quantity should be adjusted annually and reduced with 4 % to remain aligned with the evolution of the shrinking market.

(90) The analysis carried out in the context of the Commission's review of the reserve and the expected developments relevant to the carbon market indicate that the intake rate of 24 % has served its purpose and in view of the recent and future evolution of the market, this intake rate should return to 12%. To that end, the upper buffer threshold should be adjusted correspondingly.

(91) The calculation of the total number of allowances in circulation only considers data related to stationary installations until 31 December 2023. To take account of historic demand for allowances by aviation in the period between 1 January 2012 and 31 December 2023, the annual calculation of the total amount of allowances should be adjusted to reflect the cumulative demand from the aviation sector over this period.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(92) 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 2040 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.

(93) In order to ensure uniform conditions for the implementation of Articles 4 to 7 of Directive 2003/87/EC concerning the granting, suspension and withdrawing of greenhouse gas emissions permits by competent authorities, Article 10a(3b) to (3d) of Directive 2003/87/EC on the decarbonisation investment in the EU conditionality rules for free allocation concerning the format and content of the Invest in EU decarbonisation plans,implementing powers should be conferred on the Commission. In addition, to ensure uniform conditions for the implementation of the reservation and allocation mechanism pursuant to Article 3gaa of Directive 2003/87/EC as regards the non-Union ports and third countries in respect of which a derogation from the origin requirements should apply, implementing powers should be conferred on the Commission. The implementing powers conferred on the Commission pursuant to Article 14 of Directive 2003/87/EC should be extended to establish the order of capture accounting of emissions from captured CO_2 from a mix of zero-rated and non-zero-rated sources, and to the accounting of emissions from synthetic fuels, to ensure that emissions are accounted for and that double counting is avoided. In addition, the implementing powers conferred on the Commission pursuant to Article 3ga(2) should be extended in order to take into account the changes to the measure that aims to further limit the risk of evasive port calls and relocation of container transhipment activities. Those implementing powers **should** be exercised in accordance with Regulation (EU) No 182/2011.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(94) 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 supplementing the decarbonisation investment in the EU conditionality rules for free allocation in Article 10a(3b) to (3d) of Directive 2003/87/EC, with regards to the detailed conditions to form a pool rules on pooling under Article 10a(3d) and the repartition of liability between operators in that case, the detailed conditions for the derogations set out in the fifth and sixth subparagraphs of Article 10a(3c), the detailed timeline for the submission of the Invest in EU decarbonisation plans, the qualification as decarbonisation investments, the qualification as significant emissions reduction, and the determination of the economic value of the quantity of free allowances. In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of supplementing Article 9c of Directive 2003/87/EC on the modalities for the purchase of carbon removals and auctioning of the corresponding allowances, and to supplement Articles 10cb, 10cc, 10cd and 10ce of Directive 2003/87/EC on the operation of the Innovation Fund and the Industrial Decarbonisation Bank. Moreover, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of supplementing Article 19 of Directive 2003/87/EC with regards to the conditions, modalities and procedures under which the Central Administrator makes use of revenues from the auctioning of allowances to cover expenses linked with the functioning and management of the EU ETS. The power to adopt such acts should also be delegated on the Commission to supplement Article 12(3b) concerning the requirements for considering that greenhouse gases have become permanently chemically bound or chemically bound and determine measures to address the risk of loopholes. The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement Article 3gaa of Directive 2003/87/EC in respect of the detailed rules necessary for the application of the reservation and allocation of allowances for the use of sustainable maritime fuels and zero-emission propulsion technologies, as well as Article 3gab. In addition, the power to adopt 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 to supplement Article 25b of Directive 2003/87/EC in respect of the rules on the operation of ETS as a service and to amend Article 3ga(1) of that Directive in respect of the coverage of the remaining emissions released during a voyage between a port of call under the jurisdiction of a Member State and a port of call under the jurisdiction of a third country to which ETS as a service is provided. It is of particular importance that the Commission carry out appropriate

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

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.

(95) The provisions relating to the amendment to Article 3(h) and the introduction of Article 6(4) and Article 10a(3f) of Directive 2003/87/EC should apply from 1 January 2028 to clarify the rules on permitting and the corrections in case of excess free allocation as early as feasible. Consequently, Member States should transpose the provisions relating to those articles by 31 December 2027. The deadline for transposing the remaining provisions of this Directive should be 31 December 2028, to provide sufficient time for orderly implementation. 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.

Agence Europe

---

32 OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj.

33 **Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents (2011/C 369/02).**

Obtenu pour vous par
Obtained by
agence europe

(96) To ensure clarity already in the ongoing period, Members States should transpose the provisions clarifying existing rules in line with their implementation and the practice by 1 January 2028. This concerns the provisions clarifying and aligning rules with the practice as regards the definition of a new entrant in Article 3, point (h), Article 6(4) clarifying the treatment of installations to which a greenhouse emissions permit is successively granted for the first time, withdrawn and a new permit is granted during the same five-year period for free allocation and after the submission of the list referred to in Article 11(1) for that period, and Article 10a(4d) of Directive 2003/87/EC as regards returning excess allowances.

(97) To ensure timely availability of the corresponding funds, the provisions amending Articles 10a(5b), 10a(7) and inserting a new Article 19(1a) should start applying on 30 September 2027. Those provisions concern, respectively, the use of any remaining quantity of allowances from the additional amount of up to 3 % of the total quantity of allowances referred to in Article 10a(5a), the allowances that should be set aside for new entrants and the provision enabling the Commission to use allowances from the Union-wide quantity of allowances to cover expenses linked with the functioning and management of the EU ETS. To ensure timely adjustment, the provision amending Article 10a(1a) of Directive 2003/87/EC concerning the CBAM factor should also apply from 30 September 2027 onwards.

(98) Directive 2003/87/EC and Decision (EU) 2015/1814 of the European Parliament and of the Council[34] should therefore be amended accordingly,

---

[34] 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, ELI: http://data.europa.eu/eli/dec/2015/1814/oj).

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2003/87/EC

Directive 2003/87/EC is amended as follows:

(1) in Article 2, the first subparagraph is 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 the two following five-year periods 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, the end of the next five-year period only following the change to its production processes, or the end of the following two five-year periods 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) Article 3 is amended as follows:

(a) point (e) is replaced by the following:

‘(e) ‘installation’ means either of the following:

(i) a stationary technical unit where one or more activities listed in Annex I are carried out and any other directly associated activities which have a technical connection with the activities carried out and which could have an effect on emissions and pollution;

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(ii) a CO2 transport infrastructure as defined in Article 3(29) of Regulation (EU) 2024/1735 of the European Parliament and of the Council* that carries out the activity of transport of carbon dioxide listed in Annex I;

_____

* Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 (OJ L, 2024/1735, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1735/oj).'

(b) point (h) is replaced by the following:

'(h) 'new entrant' means any installation carrying out one or more of the activities listed in Annex I or an activity included in the EU ETS in accordance with Article 24, which has obtained a greenhouse gas emissions permit for the first time within the period starting from three months before the date for submission of the list under Article 11(1), and ending on 31 December of the last year in the corresponding five-year period for free allocation referred to in Article 11(1);';

(c) point (o) is replaced by the following:

'(o) 'aircraft operator' means the person who operates an aircraft at the time it performs an aviation activity listed in Annex I or, where that person cannot be identified, the entity charged for air navigation service charges pursuant to Article 32 of Regulation (EU) 2024/2803 of the European Parliament and the Council*, or **where that entity cannot be identified** ultimately the owner of the aircraft;

_____

* Regulation (EU) 2024/2803 of the European Parliament and of the Council of 23 October 2024 on the implementation of the Single European Sky (OJ L, 2024/2803, 11.11.2024, ELI: http://data.europa.eu/eli/reg/2024/2803/oj).';

(d) point (p) is deleted;

(e) point (z) is replaced by the following:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

‘(z) ‘port of call’ means either of the following:

(i) for ships transporting for commercial purposes cargo or passengers, the port where a ship stops to load or unload cargo or to embark or disembark passengers; stops for the sole purposes of refuelling, obtaining supplies, relieving the crew of a 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;

(ii) for ships performing or supporting offshore operations in connection with an offshore worksite, the port where a ship stops to load or unload cargo or to embark or disembark passengers, or the offshore worksite where a ship performs or supports offshore operations; stops for the sole purposes of refuelling, obtaining supplies, relieving the crew of a 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;’

(f) in point (ag), the words ‘for the purposes of Chapter IVa of this Directive’ are deleted;

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(g) the following points are added:

‘(aj) ‘hazardous waste’ means hazardous waste as defined in Article 3, point (2) of Directive 2008/98/EC of the European Parliament and of the Council (*)

(ak) ‘municipal waste’ means municipal waste as defined in Article 3, point (2b) of Directive 2008/98/EC;

(al) ‘synthetic fuels’ means renewable fuels of non-biological origin as defined in Article 2, point (36) of Directive (EU) 2018/2001 and low-carbon fuels as defined in Article 2, point (13), of Directive (EU) 2024/1788 of the European Parliament and of the Council*;

(am) ‘offshore operations’ means activities in connection with the exploration, appraisal or exploitation of natural resources of the seabed and subsoil, or activities in connection with offshore installations or offshore infrastructure, but excluding the activities of maritime transport of oil and gas;

(an) ‘offshore worksite’ means the geographical area covered by an authorisation delivered by the competent authority for conducting offshore operations;

(ao) ‘business flight’ means a flight that is performed with a business aircraft included on the list adopted by the Commission pursuant to Article 3c(6).’.

_____

* 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, ELI: http://data.europa.eu/eli/dir/2008/98/oj)

* Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 on common rules for the internal markets for renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (recast) (OJ L, 2024/1788, 15.7.2024, ELI: http://data.europa.eu/eli/dir/2024/1788/oj).’;

(3) Article 3c is amended as follows:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(a) paragraph 6 is replaced by the following:

‘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 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, referred to in Article 4(1), second subparagraph, of Regulation (EU) 2023/2405 of the European Parliament and the Council* and for the use of electricity, for subsonic flights for which allowances have to be surrendered in accordance with Article 12(3) of this Directive and for which the fulfilment of that obligation is not considered to be satisfied pursuant to Article 28a(1) of this Directive. For business flights, the reserved amount shall be available only for the use of electricity **and hydrogen**. Where eligible aviation fuel cannot be physically attributed to a specific flight, the allowances reserved under this subparagraph shall be available for eligible aviation fuels uplifted in the EEA proportionate to the emissions from flights, except business flights, of the aircraft operator for which allowances have to be surrendered in accordance with Article 12(3) of this Directive and the fulfilment of that obligation is not considered to be satisfied pursuant to Article 28a(1) of this Directive. The same principle shall apply to defining the volume of fuels to which zero emission factor applies.

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 pursuant to Article 13(1) of Regulation (EU) 2023/2405. 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:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(a) 50 % of the remaining price differential between the use of fossil kerosene 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 to this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

(b) 60 % of the remaining price differential between the use of fossil kerosene and hydrogen from renewable energy sources, and drop-in 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 to this Directive 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 km2 and with no road or rail link with the mainland and at airports located in an outermost region, where the physical delivery of the eligible aviation fuel, outside of a mass balance system, took place;

(d) until 31 December 2029, in cases other than those referred to in points (a), (b) and (c), 30 % 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.

(e) from 1 January 2027, the same number of allowances per megajoule (MJ) of electricity consumed as aircraft operators are entitled to receive pursuant to point (b) for the use of drop-in renewable fuels of non-biological origin, in case of electric or hybrid aircraft performing flights for which allowances have to be surrendered in accordance with Article 12(3).

Fuels shall be eligible for support referred to in this paragraph only if they are produced in the EEA, in a third country that has an emissions trading system linked with the EU ETS, or in a third country to which the Union provides support pursuant to Article 25b. Fuels referred to in the third subparagraph, points (a), (b) and (d), shall be eligible for a 10 percentage point increase in coverage if they are produced

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

using feedstock that is sourced in the Union, in a third country that has an emissions trading system linked with the EU ETS, or in a third country to which the Union provides support pursuant to Article 25b.

The allocation of allowances under this paragraph may take into account possible support from other schemes at national, Union, or international level.

On a yearly basis, 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 subsonic flights, with the exception of business flights, for which allowances have to be surrendered in accordance with Article 12(3) between 1 January 2024 and 31 December 2040, excluding flights for which that requirement is considered to be satisfied pursuant to Article 28a(1). On a yearly basis, aircraft operators may apply for an allocation of allowances in case of electric or hybrid aircraft using electricity or hydrogen for performing any flight for which allowances have to be surrendered in accordance with Article 12(3) until 31 December 2035.

If an aircraft operator demonstrates to the satisfaction of the Commission a binding long-term fuel supply contract for the fuels referred to in the third subparagraph, points (a), (b) and (e), which binds both the fuel supplier and the aircraft operator, and is valid for at least three years, the allowances covering the price difference for each year of the duration of the contract, for a maximum of five years, shall be reserved for that aircraft operator. The yearly allocation of the allowances for the use of the eligible fuels delivered under those contracts shall be done the same way as set out in the second to fourth subparagraphs. Allowances reserved under this **subparagraph** cannot exceed 10 million.

If, for a given year, the demand for allowances pursuant to this paragraph 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.

Significant reductions in climate impacts from contrails in the order of millions of tonnes of CO_2e may be incentivised through the yearly use of no more than 420 000 allowances. From the amount reserved pursuant to the first subparagraph, a total of up to 3 million allowances, available until 31 December 2033, shall be dedicated to the cost-effective reduction of climate impacts from contrails. Member States shall

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

allocate allowances equal to 0,**5** percent of the verified emissions of an aircraft operator, upon its request, which has embedded contrails forecasting models in its flight planning tools. In order to be eligible for this allocation aircraft operators shall make available the contrail forecasts to their operations control centre or equivalent, which shall be instructed to assess their operational viability and, if possible, to incorporate them when filing the corresponding flights. An additional amount equal to 0,02 percent of the verified emissions shall be allocated to aircraft operators, referred to in the first sentence of this subparagraph, for flights for which the aircraft operator uses flight trajectories and fuel flow as in-flight measured data for the given year to report non-CO_2 aviation effects pursuant to Article 14(5). The contrail forecasting models of aircraft operators referred to in the first sentence of this subparagraph shall use, as a basis, the same common reference numerical weather prediction model and weather data as **those** used in the monitoring, reporting and verification tools provided by the Commission referred to in Article 14(5).

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 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. Those delegated acts may also lay down further rules and procedures for validation of contrail forecasting models and their inclusion in flight planning tools.

The Commission shall adopt implementing acts listing business aircraft(s), the flights performed by which aircraft are considered business flights. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

By 1 July 2032, the Commission shall carry out an assessment regarding the application of this paragraph and submit the results in a report to the European Parliament and to the Council. The report may, where appropriate, be accompanied by a legislative proposal to revise the amount reserved under this paragraph until 31 December 2040 **and the percentages covering the price differentials laid down in the third subparagraph of this Article**, taking into account changes to the geographic extent of flights subject to the surrender obligation laid down in Article 12(3), **information on the state of the sustainable aviation fuels market, including price information, trends in sustainable aviation fuel production and use in the Union. The assessment shall also include the quantities and types of eligible fuels supplied, the origin and composition of feedstocks, and place of fuel production** to continue **to** 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).

_____

* Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation) (OJ L, 2023/2405, 31.10.2023, ELI: http://data.europa.eu/eli/reg/2023/2405/oj).

** 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, ELI: http://data.europa.eu/eli/dir/2018/2001/oj).';

(b) paragraph 8 is replaced by the following:

'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

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

December 2035 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.';

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(4) Article 3ga is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. In respect of ships transporting for commercial purposes cargo or passengers, 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.

In respect of ships performing or supporting offshore operations in connection with an offshore worksite, the allocation of allowances and the application of surrender requirements shall apply in respect of the following:

(i) half of the emissions from that ship released during 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 for the purpose of performing or supporting offshore operations in connection with an offshore worksite situated in the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State;

(ii) all emissions from that ship released during voyages for the purpose of performing or supporting offshore operations in connection with an offshore worksite situated in the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State that depart from a port of call under the jurisdiction of a Member State and arrive at a port of call under the jurisdiction of a Member State;

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(iii) all emissions from that ship within a port of call under the jurisdiction of a Member State, if these emissions are closely related to performing or supporting offshore operations in connection with an offshore worksite situated in the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State.

However, the allocation of allowances and the application of surrender requirements shall not apply in respect of emissions released during voyages for the purpose of performing or supporting offshore operations in connection with an offshore worksite situated outside the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State, and in respect of emissions released within a port of call under the jurisdiction of a Member State, if these emissions are closely related to performing or supporting offshore operations in connection with an offshore worksite situated outside the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State.';

(b) paragraph 2 is replaced by the following:

'2. The Commission shall by means of implementing acts establish a list of neighbouring container transhipment ports and update that list, where necessary, by 31 December every year.

Those implementing acts shall list a port as a neighbouring container transhipment port either where that port is located outside the Union but less than 150 nautical miles from a port under the jurisdiction of a Member State, where the draught and berth length of that port exceed 11 meters and 250 meters, respectively, and where there are available ship-to-shore cranes suitable for container transhipment operations, or where the share of transhipment of containers, measured in twenty-foot equivalent units, exceeds 50 % 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

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

in a third country for which that third country effectively applies measures equivalent to this Directive. This includes ports in third countries with whom an ETS linking agreement is in place.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

(c) paragraph 3 is amended as follows:

(i) the date "31 December 2030" is replaced by "31 December 2038".

(ii) the penultimate sentence is replaced by the following:

'The revenue generated from the auctioning of that share of allowances shall be used for the priority purposes referred to in the first subparagraph of Article 10(3), points (a) and (d), and for purpose (g) of the purposes referred to in the second subparagraph of Article 10(3).'

(d) the following new paragraph is added:

'4. In the period until 2040, the Commission shall use up to a maximum of 0.5 million allowances from the Union-wide quantity of allowances referred to in Article 9 to cover the financing of the implementation of the system in relation to maritime transport activities.

These allowances shall be auctioned in accordance with Article 10(4) of this Directive, with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509.';

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(5) the following Article 3gaa is inserted:

'Article 3gaa

Reservation and allocation of allowances for the use of sustainable maritime fuels and zero-emission propulsion technologies

1. Notwithstanding Article 10(1), for the period from 1 January [2028/first year after the entry into force of this Directive] to 31 December 2040, a maximum of 110 million of the Union-wide quantity of allowances referred to in Article 9 shall be reserved for the use of sustainable maritime fuels or the deployment and operation of zero-emission propulsion technologies, including electric and wind-assisted propulsion systems, provided that those fuels and technologies are used in accordance with the rules laid down in this Article.

2. For the purposes of this Article, 'sustainable maritime fuels' means:

   (a) **[…]** advanced biofuels as defined in Article 2, second paragraph, point **[…]** (34), **and biogas produced from feedstocks listed in Annex IX Part A** of Directive (EU) 2018/2001, for which the emission factor is zero under Annex IV of this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

   (b) renewable fuels of non-biological origin compliant with Article 25 of Directive (EU) 2018/2001, for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive;

   (c) low-carbon hydrogen and low-carbon fuels as defined respectively in Article 2, point (11) and (13) of Directive (EU) 2024/1788 for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive..

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

3. The allowances referred to in paragraph 1 of this Article shall be reserved, on a transparent, equal-treatment and non-discriminatory basis, in respect of shipping companies for the use of sustainable maritime fuels and zero-emission propulsion technologies on voyages for which allowances have to be surrendered in accordance with Article 12(3).

   Allowances may support the use of sustainable maritime fuels or zero-emission propulsion technologies by vessels below 5 000 gross tonnage but not below 400 gross tonnage on 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.

4. Member States shall allocate the allowances reserved under paragraph 1 of this Article to cover all or part of:

   (a) the remaining price differential between the use of sustainable maritime fuels and the use of maritime fossil fuels;

   (b) the cost incurred in deploying and operating zero-emission propulsion technologies compared to conventional propulsion systems, in proportion to the amount of emission reductions achieved through the use of these zero-emission propulsion technologies.

5. The Commission shall determine the price differential between the use of maritime fossil fuels and sustainable maritime fuels on the basis of objective and verifiable information, including, where available, actual transaction prices. Where no representative market price exists for sustainable maritime fuels, the Commission shall establish reference prices on the basis of objective and verifiable elements. For maritime fossil fuels, the Commission shall estimate a weighted average price reflecting the actual mix of maritime fossil fuels reported under Regulation (EU) 2015/757.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

The cost incurred in deploying and operating zero-emission propulsion technologies compared to conventional propulsion systems shall be calculated by shipping companies on the basis of average emissions reduction costs to be determined by the Commission, taking into account objective and verifiable information.

6. When allocating allowances in accordance with this Article, Member States shall ensure that the following origin requirements are fulfilled:

   (a) the batches of sustainable maritime fuels shall be produced in the Union, or in a third country that has an emissions trading system linked with the emissions trading system established in accordance with this Directive, or in a third country to which the Union provides support pursuant to Article 25b for the effective application of greenhouse gas emission pricing with an absolute emissions cap;

   (b) the zero-emission propulsion technologies shall be manufactured in the Union, or in a third country that has an emissions trading system linked with the emissions trading system established in accordance with this Directive, or in a third country to which the Union provides support pursuant to Article 25b for the effective application of greenhouse gas emission pricing with an absolute emissions cap.

7. By way of derogation from paragraph 6, Member States shall not apply origin requirements in respect of sustainable maritime fuels used on eligible voyages between a port of call under the jurisdiction of a Member State and a port outside the jurisdiction of a Member State that is identified in the implementing act adopted pursuant to paragraph 8 **[…]**.

8. The Commission is empowered to adopt implementing acts listing ports outside the jurisdiction of a Member State that align with the guiding principles for support to port projects in third countries identified in the EU Ports strategy* and that participate in green shipping corridors with other ports under the jurisdiction of a Member State. The Commission is also empowered to adopt implementing acts to update that list, as appropriate. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

9. The allowances allocated in relation to the use of sustainable maritime fuels and zero-emission propulsion technologies shall cover:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(a) 55 % of the remaining price differential between the use of maritime fossil fuels, on the one hand, and **[…]** advanced biofuels as defined in Article 2 point **[…]** and (34), **and biogas produced from feedstocks listed in Annex IX Part A** of Directive (EU) 2018/2001, for which the emission factor is zero under Annex IV to this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

(b) 90 % of the remaining price differential between the use of maritime fossil fuels and renewable fuels of non-biological origin compliant with Article 25 of Directive (EU) 2018/2001 for which the emission factor is zero under Annex IV to this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

(c) 80 % of the remaining price differential between the use of maritime fossil fuels and low-carbon hydrogen and low-carbon fuels as defined respectively in Article 2, point (11) and (13) of Directive (EU) 2024/1788 for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive.;

(d) 90 % of the additional cost incurred in deploying and operating zero-emission propulsion technologies compared to conventional propulsion systems.

Where sustainable maritime fuels **are used** or zero-emission propulsion technologies are **deployed and operated** on a voyage between a port under the jurisdiction of a Member State and a port under the jurisdiction of a Member State located on an island, for which allowances have to be surrendered in accordance with Article 12(3), the percentages laid down the first subparagraph, points (a) to (d), shall be increased by 5 percentage points.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

Where allowances are to be allocated in relation to sustainable maritime fuels produced using feedstock that is sourced in the Union, or in a third country that has an emissions trading system linked with the emissions trading system established in accordance with this Directive, or in a third country to which the Union provides support pursuant to Article 25b for the effective application of greenhouse gas emission pricing with an absolute emissions cap, the percentages laid down in the first subparagraph, points (a) to (c), shall be increased by 10 percentage points.

Where allowances are to be allocated in relation to the deployment and operation of zero-emission propulsion technologies that have been fitted on ships in Union shipyards, the percentage laid down in the first subparagraph, point (d), shall be increased by 5 percentage points.

Where sustainable maritime fuels are used or zero-emission propulsion technologies are deployed or operated on a voyage between a port of call under the jurisdiction of a Member State and a port of call outside the jurisdiction of a Member State, the amount of allowances to be allocated in accordance with this Article shall be multiplied by **[…] 0.5**, in accordance with the geographical scope referred to in Article 3ga of this Directive.

10. **[…] Within a common annual application window to be specified in the rules adopted pursuant to paragraph 14,** shipping companies may apply**, on a yearly basis,** for an allocation of allowances based on the **verified** quantity of sustainable maritime fuels used and the **verified** emission reductions achieved through **the deployment and operation of** zero-emission propulsion technologies during the preceding calendar year.

11. If, for a given year, the demand for allowances exceeds the quantity of allowances available, the quantity of allowances shall be reduced in a uniform manner for all shipping companies concerned by the allocation for that year.

12. The allocation of allowances under this Article may take into account possible support from other schemes at national, Union, or international level.

13. The Commission shall publish in the Official Journal of the European Union the following information:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(a) the average price differential between maritime fossil fuels and sustainable maritime fuels on a yearly basis for the previous year;

(b) average emissions reduction costs resulting from the deployment and operation of zero-emission propulsion technologies every three years for the previous three years.

14. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by establishing detailed rules concerning:

(a) the calculation of price differentials, including the establishment of reference prices where representative market prices are not available;

(b) the determination of objective criteria applicable to eligible zero-emission propulsion technologies when contributing to greenhouse gas emission reductions;

(c) the determination of the emissions reductions **[…] resulting** from the deployment and operation of zero-emission propulsion technologies;

(d) application **window, and a consolidated timetable and uniform arrangements concerning applications, eligibility,** allocation, monitoring, reporting and verification procedures as regards the allocation of allowances in accordance with this Article;

(e) safeguards to prevent **double funding and** overcompensation, including **rules concerning the cumulation of support across […]** national, Union, or international schemes;

(f) establishing safeguards and procedures to ensure a fair and proportionate distribution of allowances among shipping companies, while taking into account the need to preserve effective competition and access for small and medium sized shipping companies.

15. Member States shall ensure the visibility of funding under this Article in a manner corresponding to the requirements set out in Article 30m(1), points (a) and (b).

16. From **[**1 January 2032**]**, the Commission shall evaluate the application of this Article in the annual report it is required to submit pursuant to Article 10(5).

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

* Communication from the Commission from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'EU Ports Strategy' COM(2026) 112 final, Annex 1, 'B)Guiding principles for support to port projects in third countries.';

(6) after Article 3gaa, the following Article 3gab is inserted:

'Article 3gab

Reservation and allocation of allowances for the decarbonisation of the maritime sector in certain least developed countries and small island developing States

An amount of 0.9 million of the Union-wide quantity of allowances referred to in Article 9 shall be reserved for the decarbonisation of the maritime sector in least developed countries and small island developing States as defined by the United Nations, excluding those States whose GDP per capita equals or exceeds the Union average. Such amount shall be reserved on an annual basis until 2035.

The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by laying down rules on the use of the reserved allowances referred to in the first subparagraph of this paragraph and the procedure to make available those allowances.';

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(7) Article 3gg is amended as follows:

(a) in paragraph 1, point (c) is replaced by the following:

'(c) any issue related to the coherence between the EU ETS and that measure, including double payment.'

(b) in paragraph 1, the second subparagraph is replaced by the following:

'Where appropriate, the Commission **shall** 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 **and 2040** climate targets 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 **[…] relevant Union maritime climate legislation, including the EU ETS in such a manner that** avoid**s** double payment and any significant double burden.

In accordance with Article 12(3-i), the Commission shall where appropriate ensure that any such proposal to amend this Directive will ensure that an obligation to surrender allowances shall not arise for verified emissions that are effectively priced under any IMO global measure that is implemented at a level that is equivalent to, or greater than, the average price of allowances. Requirements for establishing that verified emissions have been effectively priced under a global measure implemented by the IMO and a procedure to set out partial surrender requirements benefitting shipping companies shall also be set out, where the average price of emissions priced under the IMO global measure is less than the average price of allowances.

Any such adjustments shall apply no later than the date on which the global market-based measure becomes operational. ';

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(c) paragraph 4 is replaced by the following:

'No later than 30 September 2035, the Commission shall assess the implementation of Article 3ga(3), second subparagraph, including its contribution to the decarbonisation of maritime transport and the administrative costs incurred by the Member States concerned, and the appropriateness of extending its application beyond 31 December 2038 and, if appropriate, submit a legislative proposal to that effect'.

(d) in paragraph 5, the first subparagraph is replaced by the following:

'No later than 31 December 2031 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, below 5 000 gross tonnage but not below 400 gross tonnage, which are referred to in Article 2(1d) points (e) and (f) of Regulation (EU) 2015/757';

(e) the following paragraph 6 and 7 are added:

'6. By [1 January 2032], the Commission shall carry out an evaluation of the application of Article 3gaa and submit a report to the European Parliament and to the Council.';

7. No later than 30 September 2033, the Commission shall assess the implementation of the derogation provided for in Article 12(3-e), taking into account technological developments, the availability and deployment of low- and zero-emission propulsion technologies and sustainable fuels suitable for ice-class ships, the impact of the derogation on the decarbonisation of maritime transport, and the appropriateness of extending its application beyond 31 December 2035 and, where appropriate, submit a legislative proposal to that effect.';

(8) in Article 4, 'Article 27' is replaced by 'Articles 27 and 27a'.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(9) in Article 6, the following paragraphs are added:

'3. The Commission is empowered to adopt implementing acts establishing rules for the granting, suspension and withdrawing of greenhouse gas emissions permit by the competent authority. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

4. Where during the period referred to in Article 3, point (h), the competent authority successively grants for the first time a greenhouse gas emissions permit, withdraw**s** that permit and then grant**s** a new one, the installation shall only be reintroduced in the EU ETS in the following five-year period for free allocation referred to in Article 11(1), under the relevant status as incumbent installation or new entrant, as applicable. That installation shall remain outside the scope of the EU ETS for the rest of the five-year period for free allocation referred to in Article 11(1) during which the permit was successively granted for the first time and withdrawn.';

(10) in the title of Chapter III the word 'stationary' is deleted;

(11) the following Article is inserted:

'Article 6a

Competent authority in respect of CO_2 transport infrastructure

1. The competent authority in respect of **a** CO_2 transport infrastructure shall be the competent authority of the Member State where the CO_2 that is being transported is **[…] collected by the CO_2 transport infrastructure.** Where CO_2 is **[…] collected** outside the EEA, the competent authority shall be the competent authority of the first Member State of transit of the CO_2.

2. The competent authorities pursuant to paragraph 1 and the competent authorities of transit or reception Member States shall exchange all relevant information necessary for the approval of monitoring plans and verification of emission reports of the CO_2 transport infrastructures.'

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(12) Article 9 is amended as follows:

(a) the fourth subparagraph is replaced by the following:

'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 CO2 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 3gaa from 2030.'

(b) in Article 9, the following paragraphs are added:

'In [2031/two years after inclusion of additional small ships in MRV], the Union-wide quantity of allowances shall be increased to take into account the coverage of emissions of the categories of ships below 5 000 gross tonnage but not below 400 gross tonnage referred to in Annex I, based on their emissions for the most recent year for which data are available. The allowances resulting from that increase shall contribute to the quantity referred to in Article 3gaa.

The Union-wide quantity of allowances shall be increased in respect of municipal waste incineration by the following amounts, in consideration of the phase-in requirements established in Article 12a:

– 10.2 million allowances in 2031;
– 19.5 million allowances in 2032;
– 28.1 million allowances in 2033; and
– 36 million allowances in 2034 **[…]**.

From 2035, the linear factor shall apply to the increase of the Union-wide quantity of allowances in respect of municipal waste incineration that would take place in 2031 without consideration of the phase-in requirements established in Article 12a. The linear factor shall be 3.7% from 2031 to 2035 and 1.7% from 2036.

The Commission shall publish the Union-wide quantity of allowances by September 2028.';

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(13) the following Articles are inserted:

'Article 9b

Funding for international credits

1. Up to 260 million allowances from the Union-wide quantity of allowances referred to in Article 9 shall be made available to the facility for the purchase of up to 260 Mt of high quality and high integrity international credits, out of the international credits provided in Regulation 2021/1119/EU, to contribute to the climate ambition of the activities listed in Annex I from 2036 to 2040. All purchases shall be subject to the criteria of Regulation 2021/1119/EU being fulfilled.

2. Proceeds from the auctioning of allowances under paragraph 1 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. The Commission shall ensure that the auctioning of allowances for the facility is in accordance with the principles and modalities referred to in Article 10(4), in due time for the start of the purchases.

3. By 31 January 2033, the Commission shall present to the European Parliament and to the Council a report assessing the development of a high-quality and high-integrity international credits market, taking into account all the criteria set out in Regulation 2021/1119/EU, and their availability to contribute to the climate ambition of the activities listed in Annex I, including the following:

   (a) the environmental integrity, accounting robustness and verification requirements that would need to be fulfilled for any such credits to contribute to the ambition of these sectors, taking into account developments under the Paris Agreement and EU legislation;

   (b) the development of the market for international credits, in terms of supply and demand;

   (c) the potential implications of such use for the functioning and integrity of the EU ETS;

   (d) the specific implications for sectors covered by the EU ETS, including the risk of carbon leakage, the impacts on competitiveness, the risk of mitigation deterrence, and the consistency with the Union's economy-wide climate neutrality objective.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

4. Subject to the report in paragraph 3, by way of derogation from Article 9, in the event that high-quality and high-integrity, cost-effective international credits referred to in paragraph 1, are not available, the linear factor shall revert to 2.7% from 2036.

5. Allowances set aside under paragraph 1 shall be allocated to the Industrial Decarbonisation Bank for industrial decarbonisation projects in accordance with Article 10ce in the event they are not allocated for the purposes established in paragraph 1.

Article 9c

Domestic permanent carbon removals

1. The Union-wide quantity of allowances referred to in Article 9 shall be increased by 250 million allowances. Those allowances shall be made available to the Commission to auction them from 2031 to 2040 to generate revenues for the purchase of an equivalent amount of domestic permanent carbon removal units generated by BioCCS and DACCS activities under Regulation (EU) 2024/3012 of the European Parliament and of the Council*. The Commission shall purchase those removals units prioritising a portfolio of cost-effective, high-integrity projects with payment upon delivery of the certified units.

2. An additional 10 million allowances from the Union-wide quantity of allowances referred to in Article 9 between 2031 and 2040 shall be made available to the Commission to auction them to generate revenues for the purchase of those permanent carbon removals units, in the event the revenues generated from the allowances under paragraph 1 would be insufficient for the purchase of the total amount of domestic permanent carbon removals units.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

3. Proceeds from the auctioning of allowances under paragraphs 1 and 2 of this Article shall constitute external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council**. The auctioning of allowances for the purchase of domestic permanent carbon removal units referred to in paragraph 1 of this Article shall be carried out in accordance with the principles and modalities referred to in Article 10(4) of this Directive. The allowances set aside under paragraphs 1 and 2 of this Article shall be returned to **[…] the Member States' total quantity of allowanes to be auctioned in accordance with Article 10(2)** of this Directive in the event they are not auctioned for the purposes in paragraph 1 of this Article before 2041.

4. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the detailed modalities for the purchase of the domestic permanent carbon removal units indicated under paragraph 1, including the timing of the auctioning of the allowances referred to in paragraphs 1 and 2; the forms of support, selection procedure and criteria, eligibility criteria and technological requirements for the different types of support and payment mechanisms, using competitive allocation where feasible and reporting transparently on the outcome of the procedures; as well as the financial rules to ensure an appropriate implementation of the purchase. Those delegated acts shall ensure that any early auctioning of the allowances referred to in paragraphs 1 and 2 **[…] does not lead to an oversupply of the market by balancing it** out through the auctioning of the allowances under Article 10, to achieve the equivalent effect of a gradual integration of carbon removals towards the auctioning of 48 million of the allowances referred to in paragraphs 1 and 2 in 2040. Those delegated acts shall provide detailed modalities for the purchase of the domestic permanent carbon removals prioritising a portfolio of cost-effective, high-integrity projects with payment upon delivery of the certified units and aiming to limit **[…] financial** exposure **taking into account the liquidity of the market. Those modalities may include the conclusion of offtake agreements and cumulation rules. Units certified before 2031 shall be eligible.**

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

5. The quantity of domestic permanent carbon removals to be purchased shall be reduced by the amount of BioCCS domestic carbon removals that **[…] installations**, aircraft operators and shipping companies use in accordance with Article 14(1a), and a corresponding amount of allowances shall be cancelled from the 250 million allowances referred to in paragraph 1.

6. Any permanent carbon removal certified units generated by BioCCS and DACCS activities under Regulation (EU) 2024/3012 and purchased by the Commission in accordance with this Article shall be cancelled and no longer be allowed to account as negative emissions under Article 14(1a) of this Directive.

7. The linear reduction factor established in Article 9 shall not apply to the increase of allowances established in paragraph 1.

8. Before 31 December 2034, the Commission shall present a report to the European Parliament and to the Council in which it assesses the progress regarding the purchase of domestic permanent carbon removal units provided for under paragraph 1, considering the available supply, and the price of domestic permanent carbon removal units in comparison with the assigned budget. The report shall also examine the possible **[…] eligibility of other** units certified under Regulation (EU) 2024/3012 to permanent carbon removals **for the purchases indicated under paragraph 1**, and assess the feasibility to gradually transition, from an integration managed by the Commission, towards a direct integration by operators, beyond own use, of domestic permanent carbon removal units in the EU ETS.

---

* Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products (OJ L, 2024/3012, 6.12.2024, ELI: http://data.europa.eu/eli/reg/2024/3012/oj).

** Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (OJ L, 2024/2509, 26.9.2024, ELI: http://data.europa.eu/eli/reg/2024/2509/oj).';

(14) Article 10 is amended as follows:

(a) in paragraph 1, the first and second subparagraphs are replaced by the following:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

‘1. At least 57 % of the **[…]** Union-wide quantity of allowances referred to in Article 9 of this Directive that are not allocated in accordance with Articles 9, **3ga(4),** 3gaa, 3gab, **9b,** 9c, 10cc and 19 of this Directive, shall be auctioned by the Member States, without prejudice to a possible reduction pursuant to Article 10a(5a) of this Directive, to the placing of allowances in the market stability reserve (MSR) established by Decision (EU) 2015/1814* of the European Parliament and of the Council or to the cancellation of allowances in accordance with Article 12(4) of this Directive. The share of allowances to be auctioned by the Member States shall increase as a result of the application of the CBAM factor in accordance with Article 10a(1a) of this Directive. The quantity of allowances to be auctioned by the Member States shall be distributed in accordance with paragraph 2 of this Article.;

_____

* 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, pp. 1).’

(b) in paragraph 2, the following sentence is added to point (b):

‘Spain, Cyprus, Malta and Slovenia shall use their additional allowances for the priority purposes listed in Article 10(3) first subparagraph.’;

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(c) paragraph 3 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 at least 50% of 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, to support the decarbonisation of ETS sectors, for one or more of the following priority purposes:

(a) to top-up the support mechanisms in this Directive for reducing climate impacts from ETS sectors;

(b) to develop clean energies, electricity storage and grids for electricity transmission and distribution particularly around industrial clusters in view of the increased electricity demand from industrial decarbonisation projects, as well as to meet the commitments on renewable energies, on energy efficiency and inter-connection set out in National Energy and Climate Plans;

(c) to finance investments in industrial decarbonisation and enabling measures for such decarbonisation, including investments in industrial electrification, clean industrial production technologies, the capture, use and storage of CO_2 and the development of the CO_2 transport network;

(d) measures to decarbonise the maritime sector, including the improvement of the energy efficiency of ships, ports, innovative technologies and infrastructure, electrification and sustainable alternative fuels, such as hydrogen and ammonia that are produced from renewables, and zero-emission propulsion technologies;

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(e) measures to invest in innovative technologies to decarbonise aviation, including support to electrification, actions to reduce the overall climate impacts of aviation and increase production of low-and zero-carbon fuels, and measures to support the decarbonisation of airports;

(f) measures to support modal shift towards decarbonised forms of transport;

(g) to support competent authorities involved in the collection and disposal of municipal waste in the implementation of measures in line with the higher steps of the waste hierarchy as defined in Article 4 of the Directive 2008/98/EC, namely waste prevention, preparing for reuse, separate collection, sorting and recycling;

(h) circularity measures to reduce emissions from ETS sectors;

(i) to support the development of lead markets for low-carbon and circular products such as bio-based fertilisers, bio-based chemicals or green steel;

(j) to finance research and development necessary for any of the purposes in points (a) to (h).';

Notwithstanding the first subparagraph, Member States **shall** use the remainder **[…] or its equivalent in financial value for** the following purposes:

(a) permanent carbon removal methods, such as direct air capture and storage;

(b) 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;

(c) forestry and soil sequestration;

(d) investments to reduce agricultural emissions linked to more efficient use of fertilisers in the Union or to greenhouse gases other than CO2, and to support

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

end-users in the uptake of bio-based, organic and circular fertilisers, in line with the Fertilizer Action Plan;

(e) measures intended to reduce emissions in buildings, by improving 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 2024/1275 of the European Parliament and of the Council*, starting with the renovation of the worst-performing buildings;

(f) to provide financial support to address social aspects related to climate change in lower- and middle-income households;

(g) to cover administrative expenses of the management of the EU ETS;

(h) to adapt to the impacts of climate change;

(i) to finance climate actions in vulnerable third countries, including the adaptation to the impacts of climate change and measures to transfer technologies;

(j) 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;

(k) 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.

The use of revenues under the first and second subparagraph shall not prolong reliance on fossil fuels in power generation and shall be consistent with the transition to a safe and sustainable low-carbon economy, the objectives of the Union's 2040 climate and energy policy framework, and the climate-neutrality objective set out in Regulation (EU) 2021/1119.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Member States shall inform the Commission as to the use of revenues and the actions taken pursuant to paragraphs 3 of this Article in their reports submitted under Article 19(2) of Regulation (EU) 2018/1999 of the European Parliament and of the Council***, 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****. Member States shall disburse their revenues by the third year after the year of generation. **Revenues shall be considered disbursed when the allocation for a specific purpose, by means of a budgetary appropriation, a financing decision or an equivalent definitive national measure, is final. Full disbursement to final beneficiaries shall not be required within that period.**

The reporting shall be sufficiently detailed to enable the Commission to assess the Member States' compliance with paragraphs 3 of this Article, and Article 30m.;

_____

* Directive 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings (recast) (OJ L 1275 8.5.2024, p. 1).

** 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).

*** 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)

**** 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).'

(**d**) paragraph 5 is replaced by the following:

Obtenu pour vous par
Obtained by
agence europe

‘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, 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 and the information provided by Member States on the financial measures referred to in Article 10a(6). Member States shall submit any relevant information and report yearly by 30 June on the basis of a questionnaire or outline adopted by the Commission in the form of implementing acts pursuant to Article 21(1). The Commission shall publish the report on the functioning of the European carbon market within six months of receiving the relevant information and reports from the Member States.’;

(**e**) the following paragraph is added:

‘7. Where a Member State decides to top up ETS mechanisms that use allowances, the Member State may maintain this approach by refraining from auctioning so as to give its support in the same manner.’;

(15) Article 10a is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

‘1. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the Union-wide and fully harmonised rules for the allocation of allowances referred to in paragraphs 3b to 3d, 5, 7 and 19 of this Article.’;

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(b) paragraph 1a is amended as follows:

(i) the second subparagraph is replaced by the following:

'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 accordance with paragraphs 3a to 3d, 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, 91,5 % in 2028, 81 % in 2029, 59% in 2030, 48% in 2031, 37,5% in 2032, 27% in 2033, **and** 15% from 2034 to 2037. From 2038, a CBAM factor of 0 % shall apply.';

(ii) the following subparagraph is added after the second subparagraph:

'Notwithstanding the second subparagraph, when additional goods are added to the list in Annex I to Regulation (EU) 2023/956 whose production benefits from free allocation, for these additional goods the CBAM factor shall be equal to 97,9 % in the first year and 95,8 % in the second year of the next five-year period referred to in Article 11 of this Directive following their inclusion in that Annex and shall decrease with the same CBAM factor set out in the second subparagraph in each subsequent year starting with the CBAM factor of the year 2028. The CBAM factor shall be equal to 100 % in the period between the start of their inclusion in the Annex and the first year of the next five-year period referred to in Article 11 of this Directive.';

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(iii) the fourth subparagraph is replaced by the following:

'With the exception of the allowances reserved for Articles 10cb and 10ce pursuant to Article 10cc, and of allowances set aside for new entrants pursuant to paragraph 7, first subparagraph, of this Article, allowances resulting from the reduction of free allocation shall be auctioned in accordance with Article 10(1).'

(ba) a new paragraph 1a is inserted:

'Any free allocation to eligible measurable heat, under the heat benchmark sub-installation, produced by waste incineration and waste co-incineration installations shall be proportionate to the share of verified emissions subject to surrender obligation in Article 12a.'

(c) in paragraph 2 is amended as follows:

(i) the following subparagraph is inserted after the second subparagraph:

'The Commission shall supplement this Directive by providing, in the delegated acts adopted pursuant to paragraph 1, first subparagraph, sector-specific definitions of **[…]**heat and fuel benchmarks, together with the corresponding system boundaries, and the starting point values for determining the annual reduction rate for the update of the benchmark values in the implementing acts referred to in the third subparagraph.';

(ii) in the third subparagraph, the following points are added after point (e):

'(f) For the period from 2031 to 2035, the benchmark values shall be determined in the same manner as set out in points (a) and (g) of this subparagraph, on the basis of information submitted pursuant to Article 11 for the years 2026 and 2027, and on the basis of applying the annual reduction rate in respect of each year between 2008 and 2033. Information submitted by a third country for installations in its territory in accordance with an agreement concluded pursuant to Article 25 may also be taken into account.

(g) Where the annual reduction rate exceeds 2 % or is below 0,3 %, the benchmark values for the period from 2031 to 2035 shall be the benchmark values applicable in the period from 2013 to 2020 reduced by whichever of

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

those two percentage rates is relevant, in respect of each year between 2008 and 2033.

(h) For the period from 2036 to 2040, the benchmark values shall be determined in the same manner as set out in points (a) and (**i**) of this subparagraph, on the basis of information submitted pursuant to Article 11 for the years 2031 and 2032 and on the basis of applying the annual reduction rate in respect of each year between 2008 and 2038. Information submitted by a third country for installations in its territory in accordance with an agreement concluded pursuant to Article 25 may also be taken into account.

(i) Where the annual reduction rate exceeds 2% or is below 0,3%, the benchmark values for the period from 2036 to 2040 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 2038.';

(d) the following paragraphs are inserted after paragraph 2:

'3a. Starting in 2031, the third to sixth subparagraphs of paragraph 1 of this Article and the second to fifth subparagraphs of Article 10b(4) shall not apply.

3b. Operators of installations carrying out activities listed in Annex I shall establish, make publicly available and submit a plan to invest in decarbonisation in the EU ('Invest in EU decarbonisation plan') for the installations for which they apply for free allocation.

Operators of incumbent installations shall submit the Invest in EU decarbonisation plan to the competent authority together with information submitted by 30 **[…]May** 2029 and every five years thereafter pursuant to Article 11(1), second subparagraph. Operators of new entrants shall submit the Invest in EU decarbonisation plan to the competent authority together with their application for free allocation in accordance with the procedures established in delegated acts adopted pursuant to the first subparagraph of paragraph 1 of this Article.

By way of derogation from the second subparagraph of this paragraph, the Invest in EU decarbonisation plan may be submitted at a later date, together with activity-level

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

change reports submitted in accordance with the implementing acts adopted pursuant to paragraph 21**, <u>but no later than the year preceding the submission of the list for the subsequent five-year period referred to in Article 11(1)</u>**.

The plan referred to in the first subparagraph of this **<u>paragraph</u>** shall be consistent with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119 and shall include all the following elements:

(a) measures and investments in line with climate neutrality by 2050 at the level of the installation, considering the role of circularity measures, excluding the use of carbon offset credits ('decarbonisation measures and investments');

(b) intermediate targets to measure, by 31 December 2035 and by 31 December of each fifth year thereafter, progress made towards reaching climate neutrality through the measures and investments as set out in point (a).

For each five-year period for free allocation referred to Article 11, the decarbonisation investments referred to in point (a) shall correspond to a volume at least equivalent to the economic value of 100% of the amount of free allocation under the relevant five-year period. These decarbonisation investments shall qualify as eligible costs, be implemented in the EU and lead to significant emissions reduction at the level of the installation within the relevant five-year period for which that installation is applying for free allocation, in accordance with the list and criteria established pursuant to paragraph 3e of this Article.

3c. Upon submission of an Invest in EU decarbonisation plan that has been verified in accordance with Article 15 and approved by the competent authority, 80 % of the amount of free allocation to be received under the relevant five-year period shall be allocated annually to the installation.

Where an installation has received allowances in accordance with the first subparagraph during each five-year period starting in 2031, but has then relocated or otherwise, directly or indirectly, transferred, in whole or in part, its relevant production capacity or the associated economic activity outside the Union, the Member State shall require the operator to reimburse the received allowances for the relevant allocation period. In the

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

absence of reimbursement, the Member State shall deduct free allowances in the following years.

The remaining 20 % of the amount of free allocation for that five-years period shall only be allocated to the installation after the confirmation, no later than two years after the end of the relevant five-year period, by the competent authority **in the Member State** where the decarbonisation investments are implemented that the following conditions are met:

(a) the decarbonisation investments were implemented by that time and they were implemented in the EU;

(b) eligible costs corresponding to a volume at least equivalent to the economic value of 100% of the amount of free allocation under the relevant five-year period were invested;

(c) the existing annual reports referred to in Article 15 show that significant emissions reductions were achieved at the level of the installation in the relevant five-year period.

Allowances that are not allocated in accordance with the first and third subparagraphs or that are returned in accordance with the second subparagraph shall be made available for free allocation in the subsequent five-year period.

By way of derogation from the first subparagraph, where a project that was selected for the award of support under the Industrial Decarbonisation Bank and Investment Booster established under Articles 10cc, 10cd and 10ce or the Innovation Fund referred to in Article 10cb is being implemented in the installation during the five-year period under which it applies for free allocation, the operator of that installation shall be exempted from the obligation to establish a plan in accordance with paragraph 3b and shall receive 80 % of the amount of free allocation as referred to in the first subparagraph without additional verification. By way of derogation from the third subparagraph, the remaining 20 % of the amount of free allocation for the relevant five-year period shall only be allocated to that same installation, after the launch of the disbursement of support to the project under the Innovation Fund or upon the start of construction regarding projects awarded support under the Industrial Decarbonisation Bank or

Obtenu pour vous par
Obtained by
agence europe

Investment Booster, and after **[…]** the competent authority confirms in accordance with the third subparagraph that eligible costs corresponding to a volume at least equivalent to the economic value of 100% of the amount of free allocation under the relevant five-year period were invested in the EU.

The requirements set out in paragraph 3b and in the first and third subparagraphs of this paragraph shall not apply to the 10 % most efficient installations in a sector or subsector in the Union referred to in the first subparagraph of Article 10a(2) and in respect of the years used to determine the revised benchmark values pursuant to the third subparagraph of that Article for the relevant five-year free allocation period, to zero emissions or low-carbon installations, to installations for which the operators, following a change in their production processes in accordance with Article 2(1), decide that they are to remain within the scope of the EU ETS.

3d. Operators of installations applying for free allocation in accordance with this Article may request to form a pool of installations for the purposes of fulfilling jointly the investment requirements under paragraph 3b, fifth subparagraph.

Operators who wish to form a pool shall apply to the competent authority by submitting an agreement they concluded for the purpose of fulfilling jointly the investment requirements ('joint decarbonisation investment agreement') specifying the installations and the period for which they want to form the pool. The joint decarbonisation investment agreement may relate to five or more calendar years, provided that the minimum duration of each agreement fully covers the five-year period referred to in Article 11 for which the installations are applying for free allocation.

The joint decarbonisation investment agreement shall be concluded before submitting an application for free allocation and shall be submitted to the competent authority together with information submitted pursuant to the second subparagraph of Article 11(1). After the joint decarbonisation agreement has been submitted to the competent authority, other operators may only be added to that agreement under the next five-year period for free allocation referred to in Article 11.

Where a joint decarbonisation investment agreement is concluded, the decarbonisation investments referred to in the fifth subparagraph of paragraph 3b shall correspond to a volume at least equivalent to the economic value of 100% of the amount of free

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

allocation allocated to all installations that are part of the pool under the relevant five-year period.

3e. The Commission shall supplement this Directive by providing, in close consultation with the relevant stakeholders, in the delegated act adopted pursuant to the first subparagraph of paragraph 1, complementary implementation details as regards the free allocation provisions set out in paragraphs 3b to 3d of this Article, including:

(a) a list of requirements and eligible costs to qualify as decarbonisation investments;

(b) rules concerning the qualification as significant emissions reduction;

(c) a methodology for determining whether the measures and investments listed in the Invest in EU decarbonisation plan lead to significant emissions reduction;

(d) the detailed timeline for the submission of the Invest in EU decarbonisation plans;

(e) the methodology for determining the economic value of the quantity of free allowances received;

(f) rules regarding the reimbursement of allowances under paragraph 3c, second subparagraph;

(g) the requirements for installations to qualify as zero-emissions or low carbon under paragraph 3c, sixth subparagraph;

(h) the detailed conditions that shall apply to the derogations under paragraph 3c, fifth and sixth subparagraphs;

(i) the details of the application procedure to form a pool, including the minimum content and detailed conditions for the application to form a pool pursuant to paragraph 3d (including for installations in multiple Member States) and detailed timeline for its submission to the competent authority;

(j) the liability distribution for the fulfilment of investment requirements referred to in paragprah 3b, fifth subparagraph, when operators choose to form a pool.

When determining the requirements for installations to qualify as zero emissions or low carbon, the Commission shall take into account the estimated sector specific emissions

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

reductions that are necessary by 2040 and 2050 to be in line with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119, as well as the available low carbon technologies and other abatement options available for each sector, taking into account the net-zero technologies listed in Article 4 of Regulation (EU) 2024/1735.

The Commission is empowered to adopt implementing acts to specify the following:

(i) the content of the information referred to in the fourth subparagraph of paragraph 3b, points (a) and(b);

(ii) the format of the Invest in EU decarbonisation plans.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

When specifying the format and content of the Invest in EU decarbonisation plans, the Commission shall seek synergies with similar plans as provided for in Union law and aim to provide for a simple format for the Invest in EU decarbonisation plans.

Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

(e) the following paragraph is added after paragraph 3e:

'3f. Where an installation received more allowances than the amount to be allocated in accordance with the rules for free allocation laid down under this Article, the competent authority shall require the installation to return such excess allowances and instruct the national administrator to transfer returning excess allowances.';

(f) paragraph 5a is replaced by the following:

'5a. By way of derogation from paragraph 5 of this Article, from the total quantity of allowances to be auctioned by the Member States pursuant to Article 10(1) between 2031 and 2040, an amount equivalent to 4 % of the Union-wide quantity of allowances referred to in Article 9, for the period 2031 and 2040, shall, to the extent necessary, be used to increase the maximum amount available under paragraph 5 of this Article.'

(g) paragraph 5b is replaced by the following:

'5b. Until the end of 2030, where less than 3 % of the total quantity of allowances is needed to increase the maximum amount available under paragraph 5 of this Article, and from 2031 to 2040 where less than 4% of the total quantity of allowances is needed to increase the maximum amount available under paragraph 5 of this Article, the following shall apply:

(a) a maximum of 50 million allowances shall be used to increase the amount of allowances available to support innovation in accordance with the Innovation Fund established pursuant to Article 10a(8) or Article 10cb;

(b) any remaining allowances shall be used in accordance with Article 10cc.';

(h) paragraph 6 is replaced by the following:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

‘6. 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.

Member States shall also seek to use no more than 25 % of the revenues generated from the auctioning of allowances for the financial measures referred to in the first subparagraph.

Member States that have the financial measures referred to in the first subparagraph in place shall inform the Commission as to the total amount of compensation provided per benefitting sector and subsector in their reports submitted under Regulation (EU) 2018/1999, as well as information on the implementation of the measures and their contribution to decarbonisation. In addition, in any year in which a Member State uses more than 25 % of their revenues generated from the auctioning of allowances for such purposes, it shall set out the reasons for exceeding that amount and shall include relevant information on electricity prices for large industrial consumers benefiting from such financial measures, without prejudice to requirements regarding the protection of confidential information, as well as include information on whether due consideration has been given to other measures to sustainably lower indirect carbon costs in the medium to long term.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

The Commission shall include in the report provided for in Article 10(5), inter alia, an assessment of the effects of such financial measures on the internal market and, where appropriate, recommend any measures that may be necessary pursuant to that assessment.

Those measures shall be such as to ensure that there is adequate protection against the risk of carbon leakage, based on *ex ante* benchmarks for the indirect emissions of CO_2 per unit of production. Those *ex ante* benchmarks shall be calculated for a given sector or subsector as the product of the electricity consumption per unit of production corresponding to the most efficient available technologies and of the CO_2 emissions of the relevant electricity production mix.';

(i) paragraph 7 is amended as follows:

(i) the first subparagraph is replaced by the following:

'Allowances from the maximum amount referred to in paragraph 5 of this Article which were not allocated for free by 2020 shall be set aside for new entrants, together with 200 million allowances placed in the market stability reserve pursuant to Article 1(3) of Decision (EU) 2015/1814 and 50 million allowances from the quantity of allowances resulting from the reduction of free allocation referred to in paragraph 1a of this Article.';

(ii) the third subparagraph is deleted;

(j) paragraphs 8 and 8a are deleted;

(16) Article 10b is amended as follows:

(a) in paragraph 1, second sentence, '2030' is replaced by '2040';

(b) in paragraph 4, the first subparagraph is replaced by the following:

'4. Other sectors and subsectors are considered to be able to pass on more of the costs of allowances in product prices, and shall be allocated allowances free of charge at 30 % of the quantity determined pursuant to Article 10a. Unless otherwise decided in the review pursuant to Article 30, free allocations to other sectors and subsectors, except district heating, shall decrease by equal amounts after 2026 so as to reach a level of no free

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

allocation in 2030. Free allocation to district heating shall decrease by equal amounts after 2030 so as to reach a level of no free allocation in 2040.';

(17) the following articles are inserted:

'Article 10cb

Innovation Fund

1. A fund (the 'Innovation Fund') is hereby established to support bringing innovation to market, and scaling-up low-, zero-carbon and carbon negative products, processes and technologies that contribute significantly to the decarbonisation of sectors covered by this Directive.

2. The Innovation Fund shall be funded from the auctioning of 200 million allowances resulting from the reduction of free allocation in line with Article 10a(1a). To the extent that fewer than 50 million allowances remain available following the increase of the maximum amount under Article 10a(5) in accordance with Article 10a(5b), the difference shall be made available to the Innovation Fund from the quantity which could otherwise be auctioned pursuant to Article 10 in 2028.

   Allowances destined for the Innovation Fund shall be auctioned in accordance with Article 10(4), with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509. The Commission shall ensure adequate resources are available for annual actions under the Innovation Fund. To this end, budgetary commitments may be broken down into annual instalments and resources be frontloaded while ensuring a balanced distribution of the fund allowances over time.

   Member States may support projects that meet all selection criteria but cannot be funded from the relevant call budgets by making additional financial resources available. To this end, they shall notify the Commission of their intention to do so before the closure of the relevant call for proposals.

3. The Innovation Fund shall support projects in the territory of all Member States in sectors listed in Annex I and III, including products, technologies and processes substituting carbon-intensive ones; innovative renewable energy and energy storage technologies, including the manufacturing of clean technologies; electrification; environmentally safe carbon capture and utilisation (CCU) that contributes substantially to mitigating climate change, environmentally

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

safe capture, transport and geological storage (CCS) of CO_2, in particular for hard-to-abate industrial emissions; direct atmospheric CO_2 capture with safe, sustainable and permanent storage (DACCS); and breakthrough innovative technologies and infrastructure, including electrification, production of low- and zero-carbon fuels, to decarbonise maritime and aviation. For the aviation and maritime sectors, the Innovation Fund may also support measures to reduce the overall climate impact, including non-CO_2 effects.

4. The Innovation Fund shall prioritise innovative technologies at a high level of technological readiness that are not yet commercially viable in line with the Union's climate and energy targets as well as circularity objectives.

5. The Commission shall implement the Innovation Fund in accordance with Regulation (EU, Euratom) 2024/2509 in direct management or in indirect management through bodies referred to in Article 62(1)(c) of that Regulation.

The Innovation Fund shall be implemented in synergy with other Union programmes. An action that has received a Union contribution from another programme may also receive another contribution under the Innovation Fund. The rules of the relevant Union programme shall apply to the corresponding contribution and, if it is based on eligible costs, the cumulative support from the Innovation Fund and that other Union programme shall not exceed the total eligible costs of the action and may be calculated on a pro-rata basis.

Support from the Innovation Fund may take any form laid down in Regulation (EU, Euratom) 2024/2509 where necessary to achieve the objective of this Directive. By way of derogation from Article 212(3) of Regulation (EU, Euratom) 2024/2509 any revenue and repayments from instruments deployed under this Article paid back to the Commission shall be used for the Innovation Fund as external assigned revenue pursuant to Article 21(5) of Regulation 2024/2509.

In accordance with Article 196(2) of Regulation (EU, Euratom) 2024/2509, financial contributions may, where necessary for the implementation of projects deemed essential for security and economic resilience, cover actions that started prior to the date of the submission of the proposal for those actions.

Where the Commission decides to disburse the Innovation Fund support through contributions to the ECF InvestEU Instrument, the Innovation Fund support shall be

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

implemented in accordance with the rules applicable to the ECF InvestEU Instrument. However, the eligibility of the projects shall be assessed in accordance with this Article.

In the case of grants, projects shall be selected through open calls for proposals in a transparent manner. In preparing the calls for proposals, the Commission shall strive to ensure that all sectors are duly covered and that the selection process remains simple and accessible. The Commission shall take measures to ensure that the calls are communicated as widely as possible, and especially to small and medium-sized enterprises. Grant funding shall be disbursed subject to pre-determined milestones in line with project advancement.

The Commission may also select projects through competitive bidding. To deter speculative applications in calls for proposals or competitive bidding, the Commission may require applicants to provide a bid bond equivalent to a percentage share of the estimated total contract value, issued by an EU-authorised financial institution, as a guarantee of serious intent. The Commission may also require a completion bond issued by an EU-authorised financial institution equivalent to a percentage share of the total maximum requested support. The Commissions shall call a bid bond or a completion bond in the event of non-fulfilment of the obligations and commitments outlined in the grant agreement or bid. Any amount forfeited in accordance with this paragraph shall be used for the Innovation Fund as external assigned revenue pursuant to Article 21(5) of Regulation 2024/2509.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

6. In implementing the Innovation Fund, the Commission shall strive to ensure effective, quality-based geographical coverage across the Union, ensure adequate participation of SME's, in particular start-ups and scale-ups, and create synergies with other funding available at EU level, in particular Horizon Europe and the European Competitiveness Fund. In this context, the Commission may provide project development assistance and, on request, technical assistance to Member States with low effective participation in the Innovation Fund to address specific project challenges in those countries and improve geographical coverage.

   The Competitiveness Seal referred to in Article 8 Regulation (EU) […]/[…] of the European Parliament and of the Council* may be awarded to projects which have been assessed in an award procedure under the Innovation Fund and comply with the minimum quality requirements of that award procedure. The documents related to the award procedure may set out additional conditions.

7. Projects funded under this Article shall be required to share knowledge with other relevant projects and with Union-based researchers who have a legitimate interest.

8. The Commission shall report annually to the Climate Change Committee, the European Parliament and the Council on the implementation of the Innovation Fund, providing an analysis of funded projects by sector and Member State and an assessment of their expected contribution to Union climate neutrality under Regulation (EU) 2021/1119. Those reports shall be made public.

9. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Article with rules on the operation of the Innovation Fund, including the governance, eligibility, forms of support and related conditions, selection procedure, selection criteria, and procedural, organisational, and financial rules to ensure an appropriate implementation of the Innovation Fund in accordance with this Article.

---

* [OJ reference once adopted to Regulation (EU) […]/[…] of the European Parliament and of the Council on establishing the European Competitiveness Fund ('ECF') including the specific programme for defence research and innovation activities.]

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Article 10cc

Industrial Decarbonisation Bank

1. An instrument to support the scaling up and deployment of the technologies, processes and techniques to decarbonise industries (the 'Industrial Decarbonisation Bank) is established starting from 2028. It shall accelerate industrial decarbonisation, including electrification, within the Union through supporting capital investment, including grid connection, storage and flexibility costs incurred by projects, and operational expenditure for emission reductions or removals in stationary installations carrying out or substituting industrial production processes referred to in Annex I of this Directive, including in installations for the incineration of waste. In the period from 2028 to 2030, 400 million allowances from the quantity of allowances available pursuant to **[…]** Article 10a(5b) **point (b)**, shall be reserved to support industrial decarbonisation projects on a 'first in, first served' basis in accordance with Article 10cd.

   Where the allowances available pursuant to the second indent of Article 10a(5b) are less than the 400 million allowances referred to in the previous sentence, the difference shall be covered by allowances set aside pursuant to Article 10a(7).

   The allowances shall be available for projects in all Member States. In the first 18 months of operation, a share of allowances shall be reserved for projects in the group of Member States with a GDP per capita at market prices below 75 % of the Union average in the period 2022 to 2024, equal to 100 million allowances. After 18 months this reserved amount shall be reduced to 60 million.

2. In 2031, any remaining allowances from the 60 million allowances reserved for projects in Member States with a GDP per capita at market prices below 75% of the Union average in the period 2022 to 2024, shall be used in accordance with Article 10d. Any further remaining allowances shall be used in accordance with Article 10ce.

   In the period from 2031 to 2040, 400 million allowances from Union-wide quantity of allowances referred to Article 9 shall be reserved to support industrial decarbonisation projects in accordance with Article 10ce. These allowances shall be auctioned in accordance with Article 10(4), with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Where the amount of allowances referred to in paragraph 1 is fully used in accordance with Article 10cd, the Commission shall make available support to projects in accordance with Article 10ce earlier than 2031. The amount of allowances auctioned by Member States pursuant to Article 9 shall be reduced where necessary to enable this earlier start. Allowances corresponding to the revenues generated from that amount shall be returned to Member States starting in 2031 from the allowances reserved in accordance with the second subparagraph of this paragraph.

3. Member States may support projects that meet all relevant criteria but cannot be funded from the relevant award procedure's budget under the Industrial Decarbonisation Bank pursuant to Article 10ce by making additional financial resources available. To this end, they shall notify the Commission of their intention to do so before the closure of the relevant award procedure.

4. Any revenues generated by activities under Articles 10cc and 10ce shall constitute external assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2024/2509 to the Industrial Decarbonisation Bank.

5. To ensure efficient use of Union resources, the Commission shall ensure synergies between the Industrial Decarbonisation Bank and the European Competitiveness Fund, particularly its 'Clean Transition and Industrial Decarbonisation' window. The Competitiveness Seal referred to in Article 8 of Regulation […]/[…] may be awarded to projects which have been assessed under the Industrial Decarbonisation Bank's procedures provided they comply with all quality requirements set out in the documents related to that procedure.

6. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive with rules on the operation of the Industrial Decarbonisation Bank, including procedural, organisational, and financial rules to ensure an appropriate implementation of the Industrial Decarbonisation Bank.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

Article 10cd

Investment booster

1. Until 2030, in line with Article 10cc paragraph 1, the Commission shall support under the Industrial Decarbonisation Bank projects through allocating allowances based on a fixed carbon premium to eligible projects within the Union. The Commission shall publish open invitations for submissions of applications on the basis of which it will pre-select projects. The allowances shall then be allocated to pre-selected projects in a chronological order based on the date and time of submission of a completion bond until the amount referred to in Article 10cc is allocated or the Commission closes the invitation for submissions.

2. For the allocation of the allowances, including the pre-selection of projects, referred to in the first paragraph, the Commission shall publish Terms and Conditions developed in consultation with stakeholders. Those Terms and Conditions shall, in particular, set the fixed premium rate per tonne of CO_2 emissions avoided, **objective and transparent** eligibility criteria, minimum requirements as regards emission reductions, mandatory documentation, size of the completion bond and monitoring and verification requirements. The Terms & Conditions may also provide mechanisms for sharing possible gains and for ensuring best value for money, such as a review of the fixed premium rate should there be indications that it is no longer appropriate in light of market developments and/or differentiated Terms and Conditions.

3. The completion bond referred to in paragraph 1 shall be issued by an EU-authorised financial institution **and shall be** equivalent to a percentage share of the total maximum requested support. It shall act as a performance guarantee, ensuring the project's timely implementation. It shall be released in two instalments, with 50% released upon start of physical construction and 50% upon start of operations.

4. Upon formal approval of the allocation under this Article, projects shall start physical construction within a maximum period of 30 months set in the relevant Terms and Conditions. Start of physical construction in the sense of this Article shall mean the start of building or assembly works on the project site, excluding preparatory works such as obtaining permits, conducting Front-End Engineering Design and other studies, or undertaking site clearance. Following the start of physical construction within the period set in the first sentence of this paragraph, the Commission shall release half of the completion bond. In the event a project

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

has not started physical construction within the period set in the first sentence of this paragraph, the Commission shall call the completion bond in full. In addition, the support shall be revoked and all entitlements of the beneficiary of the support shall cease.

5. Following the start of operations of the project, the beneficiary of the support shall receive allowances periodically, upon independent verification of emissions avoidance, for a maximum period of 10 years. The Commission shall release the outstanding half of the completion bond. In case a project begins physical construction but fails to start operations, the Commission shall call the outstanding half of the completion bond. In addition, the support shall be revoked and all entitlements of the beneficiary of the support shall cease.

6. The allocation of allowances referred to in the previous paragraph shall correspond to the verified tonnes of CO_2 emissions avoided, multiplied by the fixed premium rate and divided by the average of the price of allowances in the auctions carried out in accordance with the delegated acts adopted pursuant to Article 10(4) of this Directive of the last 6 months preceding the allocation decision. The allocation of allowances under this paragraph may take into account possible other public support received for the project.

   The Commission shall ensure appropriate accounting of the number of available allowances, before it adopts a decision on the allocation of allowances under this Article. It shall notably check that the remaining number of allowances reserved pursuant to Article 10cc is sufficient to cover the estimated demand for the allocation of allowances. Where more allowances need to be allocated to fulfil commitments taken, the Commission may take those additional allowances from the amount available pursuant to Article 10ce(1).

7. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive with rules on the operation of the Industrial Decarbonisation Bank as regards the Investment Booster, including eligibility rules, the pre-selection procedure and criteria, the allocation of allowances as well as the completion bond.

Article 10ce

Industrial Decarbonisation Bank phase two

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

1. From 2031, the Commission shall use the revenues from the number of allowances reserved in line with Article 10cc**,** reserving 400 million allowances to support industrial decarbonisation projects within the Union through competitive bidding procedures awarding Carbon Contracts for Difference (CCfD) or carbon premia without prejudice to the use of other forms of support where appropriate.

2. Prior to launching a competitive bidding procedure, the Commission shall publish Terms and Conditions developed in consultation with stakeholders to specify in particular: eligibility criteria, **award criteria,** mandatory documentation, size of the bid bond and the completion bond as well as monitoring and verification requirements, ensuring transparency.

3. CCFDs shall support industrial decarbonisation projects by compensating for the difference between the strike price determined via the competitive bidding procedure and the prevailing carbon price on the common auction platform over a term of up to 10 years. The instrument shall operate with payments conditional on verified emission reductions in line with the relevant Terms and Conditions. The Commission may require beneficiaries to repay excess support if the carbon price surpasses the strike price by more than a pre-determined percentage, ensuring cost-efficiency. Any such repayment shall be used under the Industrial Decarbonisation Bank as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2024/2509.

4. The Commission may require bidders under the competitive bidding procedure to submit a bid bond equivalent to a percentage share of the estimated total contract value, issued by an EU-authorised financial institution, as a guarantee of serious intent. Where a project is not selected, the bid bond shall be released immediately. The Commission shall call the bid bond in the event of non-fulfilment of the obligations and commitments outlined in the bid. Any amount forfeited in accordance with this paragraph shall be used for the Industrial Decarbonisation Bank **[…]** as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2024/2509.

5. The Commission may also set in the Terms and Conditions a maximum period during which the project's physical construction shall start and may require beneficiaries to provide a completion bond issued by an EU-authorised financial institution equivalent to a percentage share of the total maximum requested support before the CCfD or carbon premium becomes legally effective. Start of physical construction in the sense of this paragraph shall mean the start of building or assembly works on the project site, excluding preparatory works such as

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

obtaining permits, conducting Front-End Engineering Design and other studies, or undertaking site clearance. In the event a project has not started physical construction within the maximum period set in the Terms and Conditions, the Commission shall call the completion bond. In addition, the support shall be revoked and all entitlements of the beneficiary of the support shall cease.

6. In accordance with Article 196(2) of Regulation (EU, Euratom) 2024/2509, financial contributions may, where necessary for the implementation of projects deemed essential for security and economic resilience, cover actions that started prior to the date of the submission of the proposal for those actions.

7. For CCfDs or carbon premia awarded upon conclusion of a competitive bidding procedure under this Article, financial liabilities shall not exceed the proceeds of the auctioning of the total amount of allowances available to the Industrial Decarbonisation Bank. Prior to the launch of a competitive bidding procedure, the Commission shall adopt a financing decision setting out a maximum amount available for signing CCfDs or carbon premia based on an estimate of the proceeds and payment exposure, using a plausible range of carbon price scenarios. To ensure that no liabilities are created that exceed the budget of the Industrial Decarbonisation Bank, the Commission may also set in the relevant terms and conditions rules that effectively limit the financial liability arising from contracts.

8. The Commission is empowered to adopt delegated acts in accordance with Article 23 of this Directive to supplement this Directive in order to provide detailed rules on the implementation of CCfDs, including the competitive bidding procedure, the conditions for eligibility, **award criteria,** the calculation of support, budgetary provisioning, contractual obligations, and the procedures for monitoring and verification.

9. In addition to CCfD awarded through competitive bidding, the Commission may choose to provide support under this Article in any way and form laid down in Regulation (EU, Euratom) 2024/2509, including through contributions to blending operations under the Union investment support instrument. The Commission is empowered to adopt delegated acts in accordance with Article 23 of this Directive to supplement this Directive concerning the detailed arrangements and modalities for operationalising such other forms of support.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

10. Any revenue or repayment arising from instruments deployed under this Article and Article 10cd shall be used under the Industrial Decarbonisation Bank as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2024/2509.'

(18) Article 10d is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. A fund to support investments proposed by Member States with a GDP per capita at market prices below 75 % of the Union average in the period 2022 to 2024 (the 'beneficiary Member States'), including the financing of small-scale investment projects, to modernise energy systems, improve energy efficiency, enhance industrial decarbonisation and electrification shall be established for the period from 2031 to 2040 (the 'Modernisation Fund'). The Modernisation Fund shall be financed through the auctioning of the following amounts of allowances from the total quantity of allowances to be auctioned by the Member States pursuant to Article 10(1) between 2031 and 2040:

- an amount equivalent to 2 % of the Union-wide quantity of allowances referred to in Article 9 for the period **from** 2031 **to** 2040, shall be auctioned **for** the beneficiary Member States and used as set out in Article 10d;

- and an amount equivalent to 0,5 % of the Union-wide quantity of allowances referred to in Article 9 for the period **from** 2031 **to** 2040, shall be auctioned **for** the benefit of the same Member States and be used to support investments on the basis of Article 10ce.'

The funds corresponding to these amounts of allowances shall be distributed in accordance with Annex IIb.

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. When selecting investments for support from the Modernisation Fund under this Article, the beneficiary Member States shall apply criteria and procedures which are non-discriminatory and transparent. To this end, they shall continuously provide information about ongoing and upcoming calls for expression of interests, calls for proposals and calls for tenders financed by the

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Modernisation Fund. The beneficiary Member States shall establish effective and efficient management and control systems for their investments and ensure their proper functioning in accordance with the principle of sound financial management. The beneficiary Member States may, where appropriate, use the resources of the Modernisation Fund to finance investments involving the adjacent border regions within the Union. No support from the Modernisation Fund shall be provided to energy generation facilities that use fossil fuels or facilities that transport fossil fuels.'

(a) paragraph 2 is replaced by the following:

'2. At least 95 % 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, shall be used to support investments in the following:

(a) the generation and use of renewable energy sources, including biogas and biomethane;

(b) the reduction of overall energy use through energy efficiency by at least 20% in industry, transport and buildings, avoiding any risk of fossil fuel lock-in and fostering circularity, and the recovery of waste heat from incineration plants for district heating;

(c) electrification of demand side sectors including industry, buildings and transport;

(d) the modernisation and expansion of electricity, hydrogen, district heating and CO_2 infrastructure, including energy storage;

(e) industrial decarbonisation, including CCS and CCU and electrification;

(f) support for low-income households, including in rural and remote areas, to address energy poverty and to modernise their heating systems;

(g) a just transition in carbon-intensive regions in the beneficiary Member States to support the redeployment, reskilling and up-skilling of workers, education, job-seeking initiatives and start-ups accelerating the clean energy transition;

(h) the production of affordable low-carbon and bio-based fertilisers.';

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(b) paragraph 4 is replaced by the following:

'4. All beneficiary Member States shall use the amount of allowances distributed for the purposes of solidarity, growth and interconnections within the Union specified in Article 10(2)(b) in accordance with Article 10d, to support investments within the framework of the Modernisation Fund, thereby increasing the resources available to them under the Fund. Any Member State concerned may also use the amount of allowances to be auctioned by that Member State in accordance with Article 10(2)(a), or part of that amount, in accordance with Article 10d, Where a Member State intends to use allowances referred to in Article 10(2)(a) under Article 10d, it shall inform the Commission of the relevant amount at the latest by 30 September of the preceding calendar year.'

(c) in paragraph 6, the second subparagraph is replaced by the following:

'Where an investment in line with the objectives of the Modernisation Fund, which is proposed to be financed from the Modernisation Fund, does not fall into the areas listed in paragraph 2, the investment committee shall assess the technical and financial viability of that investment, including the emission reductions it achieves, and issue a recommendation on financing the investment from the Modernisation Fund. The investment committee shall ensure that any investment financed from the Modernisation Fund achieves a substantial improvement in emission reductions and, where relevant, in energy efficiency. That recommendation may include suggestions regarding appropriate financing instruments. Up to 50% of the relevant costs of an investment which does not fall into the areas listed in paragraph 2 may be supported with resources from the Modernisation Fund provided that the remaining costs are financed by private legal entities.'

(d) the following sentence is added in the beginning of paragraph 10:

'Beneficiary Member States shall make public the information about recipients and other information referred to in Article 38(2) of Regulation (EU, Euratom) 2024/2509 where applicable in relation to support from the Modernisation Fund.'

(e) in paragraph 11, '2024' is replaced by '2036'.

(19) The following Article is inserted:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

'Article 10da

Rule of Law

1. Beneficiary Member States shall ensure the respect of the principles of the rule of law as set out in Article 2, point (a), and Article 3 of Regulation (EU, Euratom) 2020/2092 throughout the implementation of the Modernisation Fund.

2. Appropriate measures as set out in paragraph 3 may be taken where it is established that the breaches of the principles of the rule of law referred to in Article 4(2) of Regulation 2020/2092 in a beneficiary Member State affect or seriously risk affecting the sound financial management of the Modernisation Fund in a sufficiently direct way.

3. Provided that the condition set out in paragraph 2 is fulfilled, one or more of the following appropriate measures may be adopted, following the procedure inArticle 10db.

   (a) a suspension of the adoption of the disbursement decision referred to in Article 10d (3);

   (b) a suspension of disbursements under disbursement decisions already adopted;

   The measures adopted shall respect the conditions provided for in Article 5(2) to (5) of Regulation 2020/2092 as appropriate.

4. The measures shall be adopted in accordance with the procedure laid down in Article 6 of Regulation 2020/2092. When triggering the procedure, the Commission shall verify that no other means exist to protect the revenues managed under the Modernisation Fund more effectively.

5. The measures shall be lifted in accordance with the procedure laid down in Article 7 of Regulation 2020/2092.

(20) Article 10f is replaced by the following:

'Article 10f

'Do no significant harm' principle

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Revenues generated from the auctioning of allowances destined for the Modernisation Fund pursuant to Article 10d, for the Innovation Fund pursuant to Article 10cb and for the Industrial Decarbonisation Bank pursuant to Article 10cc of this Directive shall be used in line with the principle of 'do no significant harm' referred to in Article 33(2), point (d) of Regulation of Regulation (EU, Euratom) 2024/2509.'

(21) in the title of Chapter IV, the word 'stationary' is deleted;

(22) Article 12 is amended as follows:

(a) paragraph 3 is amended as follows:

(i) point (b) is replaced by the following:

'(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, reduced as set out in paragraph 3-f to deduct costs incurred from CORSIA offsetting, and thereby avoid double charging.';

(ii) the following paragraphs are inserted after paragraph 3:

'3-i . By way of derogation from paragraph 3, first subparagraph, point (c), an obligation to surrender allowances shall not arise for verified emissions that are effectively priced under any global measure that is implemented by the International Maritime Organisation (IMO) at a level that is equivalent to, or greater than, the average price of allowances.

The Commission is empowered to adopt delegated acts to supplement this Directive, laying down the requirements for establishing that verified emissions have been effectively priced under an IMO global measure and the procedure to determine partial surrender requirements benefitting shipping companies, where the average price of emissions priced under the IMO global measure is less than the average price of allowances.

This procedure shall ensure that any double payment on verified emissions that are already effectively priced under a global measure implemented by the IMO is avoided, and shall apply no later than from the date on which the global market-based measure becomes operational. The surrender obligation shall, in

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

this instance, be reduced by an equivalent proportion to the ratio of the average price of emissions under the IMO global measure and the average price of allowances.

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-h .By way of derogation from paragraph 3, first subparagraph, point (c), an obligation to surrender allowances shall not arise in respect of the additional emissions released by a ship as a result of a diversion from its planned voyage in order to render assistance in accordance with Chapter V of the SOLAS Convention. The exemption shall apply only to the emissions corresponding to the additional distance travelled and the additional fuel used as a result of such diversion, compared to the planned voyage. The additional emissions shall be substantiated by entries in the ship's logbook or by a confirmation of the competent rescue coordination centre (RCC).

3-g. By way of derogation from paragraph 3, first subparagraph, point (c), shipping companies may surrender fewer allowances than their verified emissions in respect of emissions released until 31 December 2035 from voyages from a port of call outside the jurisdiction of a Member State to a port of call under the jurisdiction of a Member State if performed by containerships of 10 000 TEU and above, if the distance of the voyage exceeds 300 nautical miles.

Where the shipping companies benefit from the derogation referred to in the first subparagraph, they may surrender fewer allowances than their verified emissions in respect of emissions released from the activities within a port in relation to the voyages referred to in the first subparagraph.

The amount of allowances to be surrendered in respect of the containership referred to in the first subparagraph at the port of call under the jurisdiction of a Member State, shall be reduced on the basis of the share of containers, measured in twenty-foot equivalent units, unloaded at the port of call under the jurisdiction of a Member

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

State for the sole purpose of being loaded onto another ship, performing a voyage between the same port of call and a port of call outside the jurisdiction of a Member State, compared to the total number of containers unloaded by the containership.

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-f. On routes subject to the offsetting requirement calculated pursuant to paragraph 6 of this Article, the reduction of the surrender obligation shall correspond to the aircraft operator's offsetting requirement, as calculated pursuant to paragraph 6 of this Article, in proportion to the extent the route is covered by the surrender obligation, multiplied by the ratio between the average price of allowances and the average price of credits eligible under Article 11a. The ratio shall be calculated using best available price indices for credits published in the carbon market report published pursuant to Article 10(5).

In case the cancelation of units pursuant to paragraph 9 does not take place for a certain period described in that paragraph, allowances shall be surrendered for the deductions that took already place for the years in that period, no later than 30 September of the year following the date of the notification of the final offsetting obligation.

In case the final offsetting requirement pursuant to paragraph 6 is not communicated to aircraft operators and the cancelation of units pursuant to paragraph 9 does not take place for a certain period described in that paragraph, allowances shall be surrendered for the deductions that took already place for the years in that period, no later than 30 September of the year following the due date of the notification of the final offsetting obligation.';

(b) in paragraphs 3-e, 3-d, 3-c, and 3-b, the date of '31 December 2030' is replaced by '31 December 2035';

(c) paragraph 3a is replaced by the following:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

‘3a. An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2009/31/EC of the European Parliament and of the Council *, or on a reciprocal basis from 2031 to a facility with a valid permit for geological storage in a third country with a greenhouse gas emissions trading system which is linked to the EU ETS pursuant to Article 25 of this Directive and in respect of which the Commission adopts an implementing decision confirming sufficient safeguards with respect to the rules set out in Directive 2009/31/EC are in place and provided the facility is not used for enhanced oil or gas recovery.

_____

* 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).’

(d) paragraph 3b is replaced by the following:

‘3b. An obligation to surrender allowances shall not arise in respect of carbon dioxide emissions which are considered to have been captured and utilised in such a way that they have become:

(a) permanently chemically bound 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, or

(b) chemically bound so that they will be primarily emitted in activities listed in Annex I and subject to a surrender obligation under Article 12(3).

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 or chemically bound as referred to in the first subparagraph of this paragraph, and list the types of utilisation that are considered to meet or not to meet these requirements. Those

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

delegated acts may determine de minimis thresholds for the risk of not meeting those requirements and may introduce measures, such as partial surrender requirements, to address carbon leakage risks when these thresholds are exceeded.'

(e) paragraph (9) is replaced by the following:

'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, by 31 January 2028 for emissions in the period 2024 to 2026, by 31 January 2031 for emissions in the period 2027 to 2029, by 31 January 2034 for emissions in the period 2030 to 2032 and by 31 January 2037 for emissions in the period 2033 to 2035.';

(23) the following articles are inserted:

'Article 12a

Phase-in of requirements for waste incineration and waste co-incineration

Waste incineration and waste co-incineration installations that become subject to the system from 2031 shall be liable to surrender allowances according to the following schedule:

(a) 25% of verified emissions reported for 2031 that would be subject to surrender requirements in accordance with Article 12;

(b) 50% of verified emissions reported for 2032 that would be subject to surrender requirements in accordance with Article 12;

(c) 75 % of verified emissions reported for 2033 that would be subject to surrender requirements in accordance with Article 12;

(d) 100% of verified emissions reported for 2034 and each year thereafter in accordance with Article 12.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

By way of derogation from the first paragraph of this Article, Member States may exempt waste incineration and waste co-incineration installations located in outermost regions within the meaning of Article 349 TFEU from the obligation to surrender allowances until 31 December 2035.

Article 12b

Opt-out for waste incineration and co-incineration

1. By way of derogation from Articles 12 and 12a, the competent authority of a Member State may exempt installations under the activity 'Waste incineration and waste co-incineration' referred to in Annex I, from the obligation to surrender allowances for the emissions of a given reference year up to 2035, provided that the Member State demonstrates that at least two out of the following three conditionsare met:

   (a) The Member State concerned has a national carbon tax in force for the emissions of the years 2031 to 2035, covering the activity referred to in in Annex I; the national law setting the tax rates applicable for the years 2031 to 2035 has, by the date of notification in accordance with 31July 2029, entered into force; for the reference year, the national carbon tax of the Member State concerned effectively paid by that **[…] installation** is higher than the average auction clearing price of the emissions trading system established under this Chapter, adjusted for the gradual phase-in for the sector in accordance with Article 12a; the Member State concerned shall notify the Commission of any subsequent change to the national carbon tax;

   (b) The Member State concerned has the policies in place to achieve the targets under Article 11(2)(d) and (e) of Directive 2008/98/EC and is on track to meet those targets;

   (c) The Member State concerned has the policies in place to achieve the target under Article 5(5) of Directive 1999/31/EC and is on track to meet that target.

2. The Member State concerned shall cancel an amount of allowances from the total quantity of allowances to be auctioned by it, referred to in Article 10, for each reference year, which is equal to the **share of** verified emissions of the relevant installations **subject to the surrender obligation in accordance with Article 12a** for the reference year. The allowances shall be cancelled in accordance with the delegated acts adopted pursuant to Article 10(4).

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

3. By 31 July 2029, the Member State concerned shall notify the Commission of its request for the opt-out, demonstrating compliance with at least two out of the three conditions in paragraph 1, and indicating the corresponding amount of allowances to be cancelled in accordance with paragraph 2.

4. The derogation shall enter into force if 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 this paragraph.

5. The amount of allowances to be cancelled under paragraph 2 shall not affect, 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 10 of this Directive.

6. The installations concerned shall continue to fully comply with the obligations under Article 14 on monitoring and reporting of its emissions and Article 15 on verification and accreditation.'

(24) Article 14 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

'The Commission is empowered to 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. Such 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

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

order for such biomass to be zero-rated. They shall specify the order of capture and how to account the emissions **of** captured CO_2 from a mix of zero-rated and non-zero-rated sources. They shall also specify how to account for emissions from synthetic fuels, ensuring that such emissions are accounted for and that double counting is avoided. Carbon chemically bound in synthetic fuels shall be considered to be emitted by the activity of distribution of synthetic fuels established in Annex I.'

(b) the following paragraph is inserted:

'1a. The acts referred to in paragraph 1 shall provide for the possibility for operators, aircraft operators and shipping companies to compensate their fossil emissions with domestic permanent carbon removal units generated from the storage of their biogenic emissions under the scope of this Directive and certified under Regulation (EU) 2024/3012, while avoiding the double counting of those negative emissions.'

(25) Article 19 is amended as follows:

(a) in paragraph 1, the second subparagraph **is replaced by the following:**

'Each Member State shall be able to fulfil the execution of authorised operations under the UNFCCC';

(b) the following paragraph is inserted after paragraph 1:

'1a. In the period until 2040, the Commission **may** use up to a maximum of 5 million allowances from the Union-wide quantity of allowances referred to in Article 9 to cover expenses linked with the functioning and management of the EU ETS, including the financing of the operation of the Union Registry.

Where the Commission decides to use the allowances pursuant to the first subparagraph, those allowances shall be auctioned in accordance with Article 10(4) of this Directive, with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509.

In the event that the allowances set aside under the first subparagraph of this paragraph are not auctioned for the purposes established in the first subparagraph of this paragraph before 2041, they shall be **[…] returned to the Member States' total quantity of allowances to be auctioned in accordance with Article 10(2)**.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

The acts referred to in paragraph 3 of this Article shall specify the conditions, modalities and procedures under which the Central Administrator designated by the Commission pursuant to Article 20(1) shall make use of revenues from the auctioning of allowances pursuant to this paragraph**, including arrangements for transparency and reporting on the use of those revenues**.';

(26) Article 20 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The Commission shall designate a Central Administrator to maintain a Union registry recording the issue, transfer and cancellation of allowances.';

(b) paragraph 2 is replaced by the following:

'2. The Central Administrator shall conduct automated checks on each transaction in the Union registry to ensure there are no irregularities in the issue, transfer and cancellation of allowances.';

(c) paragraph 3 is deleted;

(27) Article 21 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Each year the Member States shall submit to the Commission a report on the application of this Directive. That report shall pay particular attention to the arrangements for the allocation of allowances, the operation of registries, the application of the implementing measures on monitoring and reporting, verification and accreditation and issues relating to compliance with this Directive and on the fiscal treatment of allowances, if any. The **[…]** report shall be sent to the Commission by 30 June for every reporting year. The report shall be drawn up on the basis of a questionnaire or outline adopted by the Commission in the form of implementing acts. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2). The questionnaire or outline shall be made available to Member States at least six months before the deadline for the submission of the first report and as early as possible before the deadline for the

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

submission of each annual report thereafter, following a consultation process on a revised questionnaire with Member States where applicable.';

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

'3. The Commission shall organise an exchange of information between the competent authorities of the Member States concerning developments relating to issues of allocation, the operation of registries, monitoring, reporting, verification, accreditation, information technology, and compliance with this Directive.';

(d) paragraph 4 is replaced by the following:

'4. Every three years, the report referred to in paragraph 1 shall also pay particular attention to the equivalent measures adopted for small installations excluded from the EU ETS. The issue of equivalent measures adopted for small installations shall also be considered in the exchange of information referred to in paragraph **3**.';

(28) Article 23 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The power to adopt delegated acts referred to in Article 3c(6), Article 3d(3), Article 3gaa, Article 3gab, Article 9c, Article 10(4), Article 10a(1), (8) and (8a), Article 10a(3e), Article 10b(5), Article 10cb(9), Article 10cc(6), Article 10cd(7), Article 10ce(9), Article 12(3b), Article 19(3), Article 22, Article 24(3), Article 24a(1), Article 25a(1), 25b(6) 25b(7), Article 28c and Article 30j(1) shall be conferred on the Commission for an indeterminate period of time from 8 April 2018.'

(b) paragraph 3 is replaced by the following:

'3. The delegation of power referred to paragraph 2 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

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.'

(c) paragraph 6 is replaced by the following:

'6. A delegated act adopted pursuant to the articles referred to in paragraph 2 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.'

(29) Article 25a is amended as follows:

[…]

(b) paragraph 8 is replaced by the following:

'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 a Member State and a State listed in the implementing act adopted pursuant to paragraph 3 of this Article, or a flight between two different States listed in that implementing act, 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) and that could lead to a significant distortion of competition, the Commission shall be empowered to adopt implementing acts, on the request of a Member State, 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).';

(30) the following Article 25b is inserted:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

'Article 25b

ETS as a service

1. Administrative and technical support and coordination may be provided for third countries to facilitate greenhouse gas emissions pricing ('ETS as a service'), in particular in respect of emissions released from the following activities:

   (a) aviation as set out in Annex I in respect of the emissions from flights between the EEA and the third country;

   (b) maritime transport as set out in Annex I in respect of the remaining fifty percent (50%) of the emissions released during voyages between a port of call under the jurisdiction of a Member State and a port of call under the jurisdiction of the third country that fall outside the scope laid down in Article 3ga.

   Such support shall be provided in respect of emissions from aviation from reporting year 2027 at the earliest, and in respect of emissions from maritime transport from reporting year 2029 at the earliest.

2. Where aviation or maritime emissions are priced pursuant to paragraph 1 of this Article, with an absolute emissions cap, the third country shall benefit from revenues to tackle climate change as follows:

   (a) for aviation, for fifty percent (50%) of the aviation activity between the EEA and the third country;

   (b) for maritime, for the remaining fifty percent (50%) of the emissions released during voyages between a port of call under the jurisdiction of a Member State and a port of call under the jurisdiction of the third country that fall outside of the scope laid down in Article 3ga.

   In the absence of national auctioning of allowances, these allowances shall be auctioned by the Union on the common auction platform appointed pursuant to the delegated act adopted in accordance with Article 10(4) of this Directive and in accordance with the principles and modalities referred to in Article 10(4) of this Directive, with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509. The

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

corresponding revenues generated from the auctioning of these allowances shall be transferred to the third country.

3. Where allowances are auctioned by the Union in accordance with paragraph 2 of this Article, the Union-wide quantity of allowances referred to in Article 9 shall be increased to take into account the coverage of emissions from aviation and maritime transport referred to in this Article, first paragraph, based on their emissions for the most recent year for which data are available. The linear reduction factor shall also apply to these allowances.

4. In advance of national administration procedures being in place in the relevant third countries, Member States which administer relevant aircraft operators and shipping companies shall undertake administrative functions in their regard. Optimum interaction shall be ensured for the administration of aircraft operators and shipping companies and for ensuring effective enforcement.

5. The Commission, assisted by EMSA, shall endeavour to make available the tools and guidance referred to in Article 18b(2).

6. The Commission is empowered to adopt delegated acts in accordance with Article 23 to amend Article 3ga(1) concerning the coverage of the remaining emissions released during voyages between ports of call under the jurisdiction of a Member State and the ports of call of a third country to which support is provided in accordance with this Article.

7. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Article with rules on the operation of ETS as a service, to ensure implementation of ETS as a service in accordance with this Article.';

(31) Article 28a is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

'(a) all emissions from flights departing from an aerodrome located in an outermost region of a Member State or in dependencies and territories to States outside the EEA, with the exception of flights to aerodromes located in the United Kingdom or Switzerland and to and from Gibraltar, in each calendar year from 1 January 2029 to 31 December 2032, subject to the review referred

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

to in Article 28b, except for aircraft operators operating flights between two different States with total annual emissions lower than 10 000 tonnes per year calculated in accordance with **point (b) of the third subparagraph of the twenty-ninth row on 'Aviation' of** Annex I;'

(ii) the following points are added after point (b):

'(c) all emissions from flights to and from least developed countries and small island developing States as defined by the United Nations listed in the implementing act adopted pursuant to Article 25a(3), other than those States whose GDP per capita equals or exceeds the Union average;

(d) 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 and to and from Gibraltar, in each calendar year from 1 January 2027 to 31 December 2028, except for aircraft operators operating flights between two different States with total annual emissions lower than 10 000 tonnes calculated in accordance with **point (b) of the third subparagraph of the twenty-ninth row on 'Aviation' of** Annex I, for whom **it applies** in each calendar year from 1 January 2027 to 31 December [2027/ the year before the entry into force of this Directive];

(e) all emissions from flights to aerodromes that are more than 5 000 km **great circle distance** from the aerodrome of Frankfurt and located in States outside the EEA in each calendar year from 1 January 2029 to 31 December 2032, except for aircraft operators operating flights between two different States with total annual emissions lower than 10 000 tonnes calculated in accordance with **point (b) of the third subparagraph of the twenty-ninth row on 'Aviation' of** Annex I. This point shall also apply in respect of aerodromes that are less than 5 000 km from the aerodrome of Frankfurt, are located in States outside the EEA and have less than 15 000 tonnes annual emissions **in the previous year** from flights from the EEA to them.';

(iii) the following subparagraph is added:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

‘From 1 January 2027, the total quantity of allowances to be allocated in respect of aircraft operators as laid down in Article 3c(5) shall be increased annually whenever an extension of the coverage of flights subject to requirements pursuant to Article 12(3) takes place by the number of allowances equal to the emissions from such flights two years before such extension becomes effective, and from the subsequent year shall be subject to the application of the linear factor referred to in Article 9. That amount **shall** be reduced by the amount equal to the total reductions of the surrender obligations pursuant to Article 12(3), point (b) resulting from an offsetting obligation pursuant to Article 12(6).’;

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

(b) paragraph 2 is replaced by the following:

'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 2027 to 31 December 2032 shall be reduced to correspond to its share of attributed aviation emissions from flights which are not subject to the derogations provided for in Article 3c(8) and in paragraph 1, points (a) to (e) of this Article.';

(c) paragraph 4 is replaced by the following:

'4. By way of derogation from Articles 3g, 12, 15 and 18a of this Directive, where an aircraft operator has total annual emissions lower than 25 000 tonnes of CO_2, calculated in accordance with 'Aviation', point (j), of Annex I to this Directive, or where an aircraft operator has total annual emissions lower than 10 000 tonnes of CO_2 subject to surrender obligation pursuant to Article 12(3) of this Directive, point (b), not taking into account emissions for which the surrender obligation is considered to be satisfied under Article 3c(8) or Article 28a(1) of this Directive, 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 **[…]** **Environment Management Information Service (EMIS)**. Member States may implement simplified procedures for **[…]** aircraft operators as long as such procedures provide no less accuracy than the small emitters tool provides.

---

* 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 ELI: http://data.europa.eu/eli/reg/2010/606/oj.)';

(d) the following paragraph is added:

'6. In addition to the amount reserved for the use of eligible aviation fuels and electricity pursuant to Article 3c(6), taking into account the provisional restriction of the geographical scope pursuant to Article 28a(1), point (d), a further maximum 110 million allowances of the allowances referred to in third subparagraph of paragraph 1 shall be reserved for the purposes laid down in Article 3c(6) until 31 December 2040.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

From 1 January 2029, the amount shall be available for all flights departing from an aerodrome loacted in the EEA, with the restrictions for business flights pursuant to Article 3c(6). From this date, the two last sentences of Article 3c(6), first subparagraph, shall not apply for the allocation of allowances pursuant to that Article.';

(32) In Article 28b, the following paragraph is added:

'(4) By 1 July 2032, 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, with special regard to the developments happened since 2027. The Commission shall also publish that report by 1 July 2032.

The Commission's report 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 2040 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, restrict the application of the EU ETS to flights between two aerodromes located in States in the EEA, to aerodromes located in Switzerland and the UK and to and from Gibraltar where the report shows that:

(a) CORSIA has been strengthened in line with achieving its long-term global aspirational goal, towards meeting the Paris Agreement goals; and

(b) States listed in the implementing act adopted pursuant to Article 25a(3) represent more than 70% of international aviation emissions using the most recent available data.';

(33) in Article 30 is amended as follows;

(a) in paragraph 7, first subparagraph, the sole footnote is deleted;

(b) the following paragraph is added:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

‘9. By 31 December 2034, the Commission shall present a report to the European Parliament and to the Council in which it shall assess the appropriateness of including in the EU ETS emissions from landfills. In that regard, the Commission shall take into account any potential evidence of diversion of waste towards disposal by landfilling. The Commission may, where appropriate, accompany that report with a legislative proposal to include landfills in the EU ETS.’;

(34) in Article 30m, paragraph 3 is replaced by the following:

‘Member States shall 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), corresponding to what is referred to in paragraph 1, points (a) and (b), of this Article.’;

(35) Annexes I to V are amended as set out in the Annexes to this Directive;

Article 2

Amendments to Decision (EU) 2015/1814

Article 1 of Decision (EU) 2015/1814 is amended as follows:

(1) in paragraph 4a, the first subparagraph is replaced by the following:

‘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. That calculation shall also cover 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, over the period between 1 January 2012 and 31 December 2023’;

(2) in paragraph 5, the first subparagraph is replaced by the following:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

‘In any given year, if the total number of allowances in circulation is between 833 million and 947 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 947 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. From 2029, the thresholds of 833 and 947 million under this paragraph shall decrease annually by 4%, rounded to the nearest million, as specified in the Annex’.

(3) paragraph 6 is replaced by the following:

‘6. In any year, if the total number of allowances in circulation is between 300 million and 400 million, a number of allowances equal to the difference between 400 million and the total number of allowances in circulation shall be released from the reserve. If the total number of allowances in circulation is less than 300 million, an amount of 100 million allowances shall be released from the reserve.

From 2029, the thresholds of 400 million and of 300 million and the amount of 100 million allowances to be released from the reserve, set out in the previous subparagraph, shall decrease annually by 4 %, rounded to the nearest million, as specified in the Annex.

Where fewer allowances are in the reserve than must be released in accordance with this paragraph, the release shall be equal to the allowances that remain in the reserve.

The amount of allowances released from the reserve under this paragraph shall be added to the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC.’

Article 3

Transposition

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

1. Member States shall adopt and publish, by 31 December 2028 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2029.

However, Member States shall apply those provisions necessary to comply with the following provisions from the following dates

(a) from 1 January 2031:

(i) Article 1, point (**4**), [as regards the new second paragraph of Article 3ga(1) of Directive 2003/87/EC] [N.B.: date of application may need to be changed to ensure it starts 2 years after MRV Maritime application in 2029];

(ii) Annex I, point 1(c)(iii) to (v) regarding the amendments to the activities on capture of carbon dioxide, transport of carbon dioxide, utilisation of carbon dioxide, processing of carbon dioxide and distribution of synthetic fuels in rows twenty-six, twenty-seven, and the rows inserted after the twenty-eight row in Annex I to Directive 2003/87/EC;

(**b**) from 1 January 2029: Annex I, point (1)(c)(vi), as regards the entry 'Maritime transport' in the table in Annex I to Directive 2003/87/EC;

(**c**) from 30 September 2029: Article 1, point (17)(d), regarding Article 10a(3b), Article 10a(3c), Article 10a(3d) of Directive 2003/87/EC as regards the five-year period for free allocation starting in 2031.

(**d**) from [date of application of MRV provisions related to offshore]: Article 1, point (**2**)(e), as regards Article 3, point (z) 'port of call' of Directive 2003/87/EC.

When Member States adopt those provisions, 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. By way of derogation from paragraph 1, Member States shall adopt and publish, by 31 December 2027 at the latest, the laws, regulations and administrative provisions necessary to comply with Article 1, points **[…] (2)(b), (9) and (15e)** of this Directive regarding the

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

amendment to Article 3(h) and the introduction of Article 6(4) and Article 10a(3f) of Directive 2003/87/EC. They shall apply those measures from 1 January 2028.

When Member States adopt those provisions, 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.

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

The list contained in the Annex to Delegated Decision (EU) 2019/708 shall continue to apply until 31 December 2040.

Article 5

Entry into force and application

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

2. The following articles shall apply from 30 September 2027:

   (a) Article 1(15)(b)(i), and (ii) regarding the amendments to Article 10a(1a) of Directive 2003/87/EC;

   (b) Article 1(15)(g) and (i) regarding the amendments to Article 10a(5b) and 10a(7) of Directive 2003/87/EC;

   (c) Article 1(17) regarding the introduction of Articles 10cc, 10cd and 10ce of Directive 2003/87/EC;

   (d) Article 1(25)(b) regarding the amendments inserting paragraph 1a in Article 19 of Directive 2003/87/EC;

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(e) Article 1(15)(c)(i) regarding the amendment inserting a new suparagraph after Article 10a(2), second subparagraph;

3. The following articles shall apply from 1 January 2029:

(a) Article 1(14)(c) regarding the amendments to Article 10(3);

(b) Article 1(15)(c)(ii) regarding the introduction of points (f) to (i) in the third subparagraph of Article 10a(2) of Directive 2003/87/EC;

3a. Article 1(12)(a) regarding the amendment to the fourth subparagraph of Article 9 of Directive 2003/87/EC shall apply from 1 January 2030.

4. Article 1(15)(b)(iii) regarding the use of the allowances resulting from the reduction of free allocation, Article 1(15)(f) regarding the replacement of Article 10a(5a), Article 1(15)(j) regarding the deletion of Article 10a(8) and 10a(8a) of Directive 2003/87/EC, Article 1(17) regarding the insertion of Article 10cb of Directive 2003/87/EC, Article 1(18) regarding the amendments to Article 10d of Directive 2003/87/EC, Article 1(20) regarding the amendments to Article 10f of Directive 2003/87/EC, and Article 1(35) regarding the amendments to Annex IIb of Directive 2003/87/EC, shall apply from 1 January 2031.

The Commission shall ensure that:

(c) ongoing projects approved or selected for funding under Article 10a(8) before 1 January 2031 remain eligible for disbursement in accordance with the rules in force at the time of approval;

(d) unallocated funds as of 31 December 2030 are transferred to Article 10cc.

Article 6

Addressees

This Directive is addressed to the Member States.

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

ANNEX I

(2) Annex I to Directive 2003/87/EC is amended as follows:

The title is replaced by

ANNEX I

'AVIATION, MARITIME TRANSPORT AND INSTALLATIONS'

in point 5 the following words are deleted: 'or municipal'

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)	Carbon dioxide

(ii) the twenty- fourth row is replaced by the following:

Production of hydrogen (H_2), including production of hydrogen as by-product only, and synthesis gas with a production capacity exceeding 5 tonnes per day	Carbon dioxide

(iii) the twenty-sixth row is replaced by the following:

Capture of carbon dioxide from activities covered by this Directive	Carbon dioxide

(iv) the twenty-seventh row is replaced by the following:

Transport of carbon dioxide to an installation performing an activity covered by this Directive, with the exclusion of those emissions covered by another activity under this Directive	Carbon dioxide

(v) the following rows are inserted after the twenty-eight row:

Processing of carbon dioxide from activities covered by this Directive, including purification, liquefaction, gasification, temporary storage or other similar services	Carbon dioxide

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

Utilisation of carbon dioxide from activities covered by this Directive chemically binding it into other carbon-based molecules	
Distribution of synthetic fuels that incorporate carbon from **[…]** activities covered by this Directive	

(vi) the following changes are made in the twenty-ninth row on 'Aviation':

a sentence is added after the first sentence:

'From 1 January 2029, flights which depart from an aerodrome situated in the territory of a Member State to which the Treaty applies, except for aircraft operators operating flights between two different States with total annual emissions lower than 10 000 tonnes calculated in accordance with **point (b) of the third subparagraph of the twenty-ninth row on 'Aviation' of** this Annex.'

point (j) is replaced by the following:

'(j) flights which, but for this point, would fall within this activity, performed by an aircraft operator operating flights with total annual emissions lower than 1 000 tonnes per year falling under the scope of this Directive as defined before 2029 or under the scope of the ETS of Switzerland or the ETS of the UK.

Flights referred to in points (l) and (m) or performed exclusively for the transport, on official mission, of reigning Monarchs and their immediate family, Heads of State, Heads of Government and Government Ministers, of a Member State may not be excluded under this point;';

point (k) is replaced by the following:

'(k) flights which, but for this point, would fall within this activity, performed by an aircraft operator operating flights with total annual emissions subject to surrender obligation pursuant to Article 12(3)(b) lower than 1 000 tonnes per year, not taking into account emissions for which the surrender obligation is considered to be satisfied under Article 3c(8) or Article 28a(1)';

after point (m), the first sentence is replaced by the following:

'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, flights which arrive in an aerodrome situated in the EEA and any other flight between

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

aerodromes that are located in two different third countries by aircraft operators that fulfil all of the following conditions: ':[35]

(vii) the thirtieth row is replaced by the following:

Maritime transport Maritime transport activities covered by Regulation (EU) 2015/757 with the exception of **(i)** the maritime transport activities covered by Article 2(1d) points (e) and (f), and **(ii)** until 31 December 2030 the maritime transport activities covered by Article 2(1a), (1aa), (1ba) and (1d) points (a) to (d) of that Regulation, and **(iii)** from 1 January 2031 the maritime transport activities covered by Article 2(1b) of that Regulation.	Carbon dioxide From 1 January 2026, methane and nitrous oxide

(viii) the following rows are added:

Waste incineration and waste co-incineration **From 1 January 2029 for the purposes of Articles 14 and 15, and f**rom 1 January 2031 **for all purposes**, disposal or recovery of waste in waste incineration plants or in waste co-incineration plants as defined under Article 3(40) and 3(41) of Directive 2010/75/EU of the European Parliament and of the Council for non-hazardous waste with a capacity exceeding 3 tonnes per hour, excluding chemical recycling.	Carbon dioxide
The Commission shall report by 31 July 2029 whether one or both of the following conditions have been met: **(1)** the establishment of landfill register(s) pursuant to Article [X] of Regulation (EU) […./..] [Circular Economy Act to ensure environmental integrity and avoid circumvention; and **(2)** Best Available Techniques for Landfills conclusions have been published in the Official Journal of the European Union pursuant to Article 13 of Directive 2010/75/EU. Where both of the conditions referred to are met, Articles 14 and 15 shall apply to landfills where	**[…] Methane**

[35] Addition after "Article 28c": **flights which arrive in an aerodrome situated in the EEA.**

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

there is the disposal or recovery of non-hazardous waste from 1 January 2031 **in respect of emissions from such waste disposed as of this date.** Where one or both of the conditions referred to are not met, Articles 14 and 15 shall apply to landfills where there is the disposal or recovery of non-hazardous waste from 1 January **2034 in respect of emissions from such waste disposed as of this date.**	

(2) Annex IIb to Directive 2003/87/EC is replaced by the following:

ANNEX IIb

Distribution of funds from the Modernisation Fund corresponding to Article 10(1)

Bulgaria	5.44%
Czechia	13.02%
Estonia	1.62%
Greece	8.42%
Croatia	2.43%
Latvia	1.01%
Lithuania	2.17%
Hungary	5.78%
Poland	38.14%
Portugal	7.26%
Romania	9.92%
Slovakia	4.78%

(3) Annex IV to Directive 2003/87/EC is amended as follows:

(a) in the title of Part A, the word ‘stationary’ is deleted;

(b) in Part A, the section ‘Calculation’ is amended as follows:

Obtenu pour vous par
Obtained by
agence europe
Agence Europe

(c) in the third paragraph, the following is added:

‘Carbon dioxide captured from the atmosphere or from sources with an emission factor of zero, shall have an emissions factor of zero, unless that CO_2 is leaked, vented or otherwise released from a permanent geological storage site.’

(4) Annex V to Directive 2003/87/EC, in the title of Part A, the word ‘stationary’ is deleted.

Agence Europe

Obtenu pour vous par
Obtained by
agence europe

ANNEX II

The following Annex is added to Decision 2015/1814:

ANNEX

Dynamic parameters

Dynamic MSR parameters decreasing at a yearly rate of 4% per year

Million EUAs	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**2034**	**2035**	**2036**	**2037**	**2038**	**2039**	**2040**
Upper buffer	947	909	872	837	804	772	741	711	683	656	629	604	580
Upper threshold	833	800	768	737	708	679	652	626	601	577	554	532	510
Lower threshold	400	384	369	354	340	326	313	301	289	277	266	255	245
Lower buffer	300	288	276	265	255	245	235	225	216	208	199	191	184
Release rate	100	96	92	88	85	82	78	75	72	69	66	64	61

Agence Europe

Obtenu pour vous par
Obtained by
agence europe