Commission Delegated Regulation (EU) 2019/1123 of 12 March 2019 amending Regulation (EU) No 389/2013 as regards the technical implementation of the second commitment period of the Kyoto Protocol (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/1123

of 12 March 2019

amending Regulation (EU) No 389/2013 as regards the technical implementation of the second commitment period of the Kyoto Protocol

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC[(1)], and in particular Article 10(6) thereof,

Whereas:

(1) Article 19(1) of Directive 2003/87/EC of the European Parliament and the Council[(2)] requires that all allowances issued from 1 January 2012 onwards are held in a Union Registry. Such a Union Registry was initially established by Commission Regulation (EU) No 920/2010[(3)].

(2) Commission Regulation (EU) No 389/2013[(4)] repealed Regulation (EU) No 920/2010 to lay down general, operational and maintenance requirements concerning the Union Registry for the trading period starting on 1 January 2013 and subsequent periods, concerning the independent transaction log provided for in Article 20(1) of Directive 2003/87/EC, and concerning registries provided for in Article 6 of Decision No 280/2004/EC of the European Parliament and of the Council[(5)].

(3) Article 10(1) of Regulation (EU) No 525/2013 provides for the establishment of registries for the fulfilment of obligations stemming from the Kyoto Protocol. Regulation (EU) No 389/2013 governs also the functioning of these registries.

(4) The Conference of the Parties to the United Nations Framework Convention on Climate Change serving as the meeting of the Parties to the Kyoto Protocol adopted the Doha amendment, establishing a second commitment period of the Kyoto Protocol, starting on 1 January 2013 and ending on 31 December 2020 (‘the Doha Amendment’). The Union approved the Doha Amendment by Council Decision (EU) 2015/1339[(6)]. It is necessary to implement the Doha Amendment to the Kyoto Protocol in the Union Registry and in the national Kyoto Protocol registries. However, the relevant provisions should apply only as of the date of entry into force of the Doha Amendment to the Kyoto Protocol.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/1123. (See end of Document for details)*

(5) Norway and Liechtenstein are participating in the EU Emissions Trading System established by Directive 2003/87/EC, but are not parties to the joint fulfilment agreement[(7)] during the second commitment period of the Kyoto Protocol. Therefore, a specific clearing procedure should be established at the end of the second commitment period as provided for by Article 10(6) of Regulation (EU) No 525/2013.

(6) All operations required in relation to the third trading period of the EU Emissions Trading System between 2013 and 2020 should be completed in accordance with the rules laid down in Regulation (EU) No 389/2013. As Directive 2003/87/EC allowed for the use of international credits generated pursuant to the Kyoto Protocol, that Regulation will continue to apply to those operations until 1 July 2023, which is the end of the additional period for fulfilling commitments under the second commitment period of the Kyoto Protocol. In order to provide clarity about the rules applying to all operations related to the third trading period in accordance with Directive 2003/87/EC, as amended by Directive 2009/29/EC of the European Parliament and of the Council[(8)], on the one hand, and the rules applying to all operations related to the fourth trading period in accordance with Directive 2003/87/EC, as amended by Directive (EU) 2018/410 of the European Parliament and of the Council[(9)], on the other hand, the scope of application of those provisions of Regulation (EU) No 389/2013 which continue to apply, after the entry into force of the present Regulation, for the operations related to the third trading period will be limited to that purpose,

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EU) No 389/2013, the following Article 73h is inserted:

Article 73h

Clearing process for countries not parties to a joint fulfilment agreement

1 Within 6 months after the closure of the trading period 2013-2020, the central administrator shall calculate the clearing value for countries not parties to a joint fulfilment agreement by subtracting the amount equal to the allowances in the EU ETS resulting from the inclusion of that country in the EU ETS for the trading period 2013-2020 from the total amount of general allowances surrendered by operators administered by the national administrator of that country for the period 2013-2020.

2 The central administrator shall notify the national administrators about the result of the calculation pursuant to paragraph 1.

3 Within 5 working days of the notification set out in paragraph 2, the Central Administrator shall transfer an amount of AAUs equal to the clearing value calculated pursuant to paragraph 1 from the ETS Central Clearing Account in the Union Registry to a KP party holding account in the KP registry of each country with a positive clearing value.

4 Within 5 working days of the notification set out in paragraph 2, each KP registry administrator whose country has a negative clearing value shall transfer an amount of AAUs to that is equal to the positive equivalent of the clearing value calculated pursuant to paragraph 1 to the ETS Central Clearing Account in the Union Registry.