Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (Text with EEA relevance)

REGULATION (EU) 2018/842 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 30 May 2018

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(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[(3)],

Whereas:

(1) The European Council in its conclusions of 23-24 October 2014 on the 2030 climate and energy policy framework endorsed a binding target of at least a 40 % domestic reduction in economy-wide greenhouse gas emissions by 2030 compared to 1990 and that target was reaffirmed in the European Council conclusions of 17-18 March 2016.

(2) The European Council conclusions of 23-24 October 2014 stated that the emissions reduction target of at least 40 % should be delivered collectively by the Union in the most cost-effective manner possible, with the reductions in the European Union emissions trading system (‘EU ETS’) laid down in Directive 2003/87/EC of the European Parliament and of the Council[(4)] and non-ETS sectors amounting to 43 % and 30 %, respectively, by 2030 compared to 2005. All sectors of the economy should contribute to achieving these greenhouse gas emission reductions, and all Member States should participate in this effort, balancing considerations of fairness and solidarity. The methodology to set the national reduction targets for the non-ETS sectors, with all the elements applied in Decision No 406/2009/EC of the European Parliament and of the Council[(5)], should be continued until 2030 with efforts distributed on the basis of relative Gross Domestic Product (GDP) per capita. All Member States

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should contribute to the overall Union reduction in 2030 with the targets spanning from 0 % to – 40 % compared to 2005. National targets within the group of Member States with a GDP per capita above the Union average should be adjusted relatively to reflect cost-effectiveness in a fair and balanced manner. Achieving these greenhouse gas emission reductions should boost efficiency and innovation in the Union economy and should, in particular, promote improvements, notably in buildings, agriculture, waste management and transport, in so far as they fall under the scope of this Regulation.

(3) This Regulation forms part of the implementation of the Union's contributions under the Paris Agreement[6] adopted under the United Nations Framework Convention on Climate Change ('UNFCCC'). The Paris Agreement was concluded on behalf of the Union on 5 October 2016 by Council Decision (EU) 2016/1841[7]. The commitment of the Union to economy-wide greenhouse gas emission reductions was set out in the intended nationally determined contribution submitted in view of the Paris Agreement by the Union and its Member States to the Secretariat of the UNFCCC on 6 March 2015. The Paris Agreement entered into force on 4 November 2016 and replaces the approach taken under the 1997 Kyoto Protocol which will not be continued beyond 2020.

(4) The Paris Agreement, inter alia, sets out a long-term goal in line with the objective to keep the global temperature increase well below 2 °C above pre-industrial levels and to pursue efforts to keep it to 1,5 °C above pre-industrial levels. It also stresses the importance to adapt to the adverse impacts of climate change and to make finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. The Paris Agreement also calls for a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, and invites Parties to take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases, including forests.

(5) In its conclusions of 29-30 October 2009, the European Council supported a Union objective, in the context of necessary reductions according to the Intergovernmental Panel on Climate Change (IPCC) by developed countries as a group, to reduce greenhouse gas emissions by 80-95 % by 2050 compared to 1990 levels.

(6) The nationally determined contributions of the Parties to the Paris Agreement are to reflect their highest possible ambition and represent a progression over time. In addition, Parties to the Paris Agreement should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of the objectives of the Paris Agreement. The Council conclusions of 13 October 2017 recognise the importance of the long-term goals and the five-year review cycles in the implementation of the Paris Agreement and highlight the importance of long-term low greenhouse gas emission development strategies as a policy tool for developing reliable pathways and the long-term policy changes needed to achieve the goals of the Paris Agreement.

(7) The transition to clean energy requires changes in investment behaviour and incentives across the entire policy spectrum. It is a key Union priority to establish a resilient Energy Union to provide secure, sustainable, competitive and affordable energy to its citizens. Achieving that requires continuation of ambitious climate action with this Regulation and progress on the other aspects of the Energy Union as set out in the Commission

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communication of 25 February 2015 entitled 'A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy'.

(8) A range of Union measures enhance Member States' ability to meet their climate commitments and are crucial to achieving necessary greenhouse gas emission reductions in the sectors covered by this Regulation. Those measures include legislation on fluorinated greenhouse gases, CO_2-reductions from road vehicles, energy performance of buildings, renewables, energy efficiency and circular economy, as well as Union funding instruments for climate-related investments.

(9) The conclusions of the European Council of 19-20 March 2015 noted that the Union is committed to building an Energy Union with a forward-looking climate policy on the basis of the Commission's framework strategy, whose five dimensions are closely interrelated and mutually reinforcing. Moderation of energy demand is one of the five dimensions of that Energy Union strategy. Improving energy efficiency can deliver significant reductions in greenhouse gas emissions. It can also benefit the environment and health, improve energy security, cut energy costs for households and companies, help alleviate energy poverty and lead to increased jobs and economy-wide economic activity. Measures which contribute to an increased uptake of energy-saving technologies in buildings, industry and transport could be a cost-effective way of helping Member States achieve their targets under this Regulation.

(10) The deployment and development of sustainable and innovative practices and technologies can enhance the role of the agricultural sector in relation to climate mitigation and adaptation, in particular by reducing greenhouse gas emissions and by maintaining and enhancing sinks and carbon stocks. To reduce the carbon and ecological footprint of the agricultural sector, whilst maintaining its productivity, regeneration capacity and vitality, it is important to enhance action on climate mitigation and adaption as well as research funding for the development of and investments in sustainable and innovative practices and technologies.

(11) The agricultural sector has direct and significant impact on biodiversity and ecosystems. For that reason, it is important to ensure the coherence between the objective of this Regulation and other Union policies and objectives, such as the common agricultural policy and objectives related to the biodiversity strategy, the forestry strategy and circular economy strategy.

(12) The transport sector represents almost a quarter of the Union's greenhouse gas emissions. It is therefore important to reduce greenhouse gas emissions and risks related to fossil fuel dependency in the transport sector through a comprehensive approach for the promotion of greenhouse gas emission reductions and energy efficiency in transport, for electric transportation, for a shift of transport modes, where more sustainable, and for sustainable renewable energy sources in transport also after 2020. The shift towards low-emission mobility as part of the broader shift to a safe and sustainable low-carbon economy can be facilitated through the introduction of enabling conditions and strong incentives, as well as long-term strategies that can enhance investments.

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(13) The impact of Union and national policies and measures implementing this Regulation should be assessed in line with the monitoring and reporting obligations under Regulation (EU) No 525/2013 of the European Parliament and of the Council[(8)].

(14) Without prejudice to the powers of the budgetary authority, the mainstreaming methodology implemented during the 2014-2020 Multiannual Financial Framework should, where appropriate, be continued and improved with a view to responding to the challenges and investment needs related to climate action as of 2021 onwards. Union funding should be coherent with the objectives of the Union's 2030 climate and energy policy framework and the long-term objectives expressed in the Paris Agreement, so as to ensure the effectiveness of public spending. The Commission should prepare a report on the impact of Union funding granted from the Union budget or otherwise pursuant to Union law on the greenhouse gas emissions in the sectors covered by this Regulation or Directive 2003/87/EC.

(15) This Regulation should cover greenhouse gas emissions from the IPCC categories of energy, industrial processes and product use, agriculture and waste as determined pursuant to Regulation (EU) No 525/2013 excluding greenhouse gas emissions from the activities listed in Annex I to Directive 2003/87/EC.

(16) Data currently reported in the national greenhouse gas inventories and the national and Union registries are not sufficient to determine, at Member State level, the CO_2 civil aviation emissions at national level that are not covered by Directive 2003/87/EC. In adopting reporting obligations, the Union should not impose upon Member States or small and medium-sized enterprises (SMEs) burdens that are disproportionate to the objectives pursued. CO_2 emissions from flights that are not covered by Directive 2003/87/EC represent only a very minor part of the total greenhouse gas emissions, and establishing a reporting system for these emissions would be unduly burdensome in the light of existing requirements for the wider sector pursuant to Directive 2003/87/EC. Therefore, CO_2 emissions from IPCC source category '1.A.3.A civil aviation' should be treated as being equal to zero for the purposes of this Regulation.

(17) The greenhouse gas emissions reduction of each Member State for 2030 should be determined in relation to the level of its 2005 reviewed greenhouse gas emissions covered by this Regulation, excluding verified greenhouse gas emissions from installations that operated in 2005 and which were only included in the EU ETS after 2005. Annual emission allocations from 2021 to 2030 should be determined on the basis of data submitted by the Member States and reviewed by the Commission.

(18) The approach of annually binding national limits taken in Decision No 406/2009/EC should be continued from 2021 to 2030. The rules for setting out the annual emission allocations for each Member State as laid down in this Regulation should follow the same methodology as for Member States with negative limits under that Decision, but with the start of the trajectory calculation at five-twelfths of the distance from 2019 to 2020 or in 2020 on the average of the greenhouse gas emissions during 2016 to 2018 and the end of the trajectory being the 2030 limit for each Member State. To ensure appropriate contributions to the Union's greenhouse gas emission reduction target for the period from 2021 to 2030, the start date of the trajectory should be determined for

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each Member State on the basis of which of those dates results in a lower allocation. An adjustment to the annual emission allocation in 2021 should be provided for Member States with both a positive limit under Decision No 406/2009/EC and increasing annual emission allocations between 2017 and 2020 determined pursuant to Commission Decision 2013/162/EU[(9)] and Commission Implementing Decision 2013/634/EU[(10)], to reflect the capacity for increased greenhouse gas emissions in those years.

An additional adjustment should be provided for certain Member States in recognition of their exceptional situation of having both a positive limit under Decision No 406/2009/EC and either the lowest greenhouse gas emissions per capita under that Decision or the lowest share of greenhouse gas emissions from sectors not covered by that Decision compared to their total greenhouse gas emissions. That additional adjustment should only cover part of the greenhouse gas emission reductions needed in the period from 2021 to 2029 in order to maintain incentives for additional greenhouse gas emission reductions and in order to not impact the 2030 target achievement, taking into account the use of other adjustments and flexibilities set out in this Regulation.

(19) In order to ensure uniform conditions for the implementation of the provisions of this Regulation concerning the setting out of the annual emission allocations for Member States, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(11)].

(20) In its conclusions of 23-24 October 2014, the European Council stated that the availability and use of existing flexibility instruments within the non-ETS sectors should be significantly enhanced in order to ensure cost-effectiveness of the collective Union effort and convergence of greenhouse gas emissions per capita by 2030. As a means to enhance the overall cost-effectiveness of total reductions, Member States should be able to bank and borrow part of their annual emission allocations. They should also be able to transfer part of their annual emission allocation to other Member States. The transparency of such transfers should be ensured, and they ought to be carried out in a manner that is mutually convenient, including by means of auctioning, by the use of market intermediaries acting on an agency basis, or by way of bilateral arrangements. Any such transfer could be the result of a greenhouse gas mitigation project or programme carried out in the selling Member State and financed by the receiving Member State. In addition, Member States should be able to encourage the establishment of public-private partnerships for projects under Article 24a(1) of Directive 2003/87/EC.

(21) A one-off flexibility should be created in order to facilitate the achievement of targets for Member States with national reduction targets significantly above both the Union average and their cost-effective reduction potential as well as for Member States that did not allocate any EU ETS allowances for free to industrial installations in 2013. To preserve the aim of the Market Stability Reserve established by Decision (EU) 2015/1814 of the European Parliament and the Council[(12)] to tackle structural supply-demand imbalances in the EU ETS, the EU ETS allowances taken into account for the one-off flexibility should be considered as EU ETS allowances in circulation when determining the total number of EU ETS allowances in circulation in a given year. In its