Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (Text with EEA relevance)

REGULATION (EU) 2018/841 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 30 May 2018

on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU

(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's 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 in non-ETS sectors amounting to 43 % and 30 %, respectively, by 2030 compared to 2005, with efforts distributed on the basis of relative GDP per capita.

(3) This Regulation forms part of the implementation of the Union's commitments under the Paris Agreement[(5)] 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[(6)]. The commitment of

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the Union to economy-wide 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. The Union should continue to decrease its greenhouse gas emissions and enhance removals in line with the Paris Agreement.

(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. Forests, agricultural land and wetlands will play a central role in achieving this goal. In the Paris Agreement, the Parties also recognise the fundamental priority of safeguarding food security and ending hunger, in the context of sustainable development and efforts to eradicate poverty, and the particular vulnerabilities of food production systems to the adverse impacts of climate change, thereby fostering climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production. In order to achieve the objectives of the Paris Agreement, the Parties should increase their collective efforts. The Parties should prepare, communicate and maintain successive nationally determined contributions. The Paris Agreement replaces the approach taken under the 1997 Kyoto Protocol, which will not be continued beyond 2020. 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) The land use, land use change and forestry ('LULUCF') sector has the potential to provide long-term climate benefits, and thereby to contribute to the achievement of the Union's greenhouse gas emissions reduction target, as well as to the long-term climate goals of the Paris Agreement. The LULUCF sector also provides bio-materials that can substitute fossil- or carbon-intensive materials and therefore plays an important role in the transition to a low greenhouse-gas-emitting economy. As removals through LULUCF are reversible, they should be treated as a separate pillar in the Union climate policy framework.

(6) The European Council conclusions of 23-24 October 2014 stated that the multiple objectives of the agriculture and land use sector, with their lower mitigation potential as well as the need to ensure coherence between the Union food security and climate change objectives, should be acknowledged. The European Council invited the Commission to examine what the best means of encouraging the sustainable intensification of food production are, while optimising the sector's contribution to greenhouse gas mitigation and sequestration, including through afforestation, and to establish policy on how to include LULUCF in the 2030 greenhouse gas mitigation framework as soon as technical conditions allow and in any case before 2020.

(7) Sustainable management practices in the LULUCF sector can contribute to climate change mitigation in several ways, in particular by reducing emissions, and maintaining and enhancing sinks and carbon stocks. In order for measures aiming in particular at

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increasing carbon sequestration to be effective, the long-term stability and adaptability of carbon pools is essential. In addition, sustainable management practices can maintain the productivity, regeneration capacity and vitality of the LULUCF sector and thereby promote economic and social development, while reducing the carbon and ecological footprint of that sector.

(8) The development of sustainable and innovative practices and technologies, including agro-ecology and agro-forestry, can enhance the role of the LULUCF sector in relation to climate mitigation and adaptation, as well as strengthen the productivity and resilience of that sector. As the LULUCF sector is characterised by long timeframes for returns, long-term strategies are important to enhance research funding for the development of, and investments in, sustainable and innovative practices and technologies. Investments in preventive actions, such as sustainable management practices, can reduce the risks associated with natural disturbances.

(9) In its conclusions of 22-23 June 2017, the European Council reaffirmed the commitment of the Union and its Member States to the 2030 Agenda for Sustainable Development, which aims, inter alia, to ensure that the management of forests is sustainable.

(10) Action to reduce deforestation and forest degradation and to promote sustainable forest management in developing countries is important. In this context, in its conclusions of 21 October 2009 and 14 October 2010, the Council recalled the Union's objectives of reducing gross tropical deforestation by at least 50 % by 2020 compared to current levels and to halt global forest cover loss by 2030 at the latest.

(11) Decision No 529/2013/EU of the European Parliament and of the Council[7] sets out accounting rules applicable to emissions and removals from the LULUCF sector and thereby has contributed to the development of policies that have led towards the inclusion of the LULUCF sector in the Union's emission reduction commitment. This Regulation should build on the existing accounting rules, updating and improving them for the period from 2021 to 2030. It should lay down the obligations of Member States in implementing those accounting rules, and should also require the Member States to ensure that the overall LULUCF sector does not generate net emissions and contributes to the aim of enhancing sinks in the long-term. It should not lay down any accounting or reporting obligations for private parties, including farmers and foresters.

(12) The LULUCF sector, including agricultural land, has a direct and significant impact on biodiversity and ecosystems services. For this reason, an important objective of policies affecting this sector is to ensure that there is coherence with the Union's biodiversity strategy objectives. Actions should be taken to implement and support activities in this sector relating to both mitigation and adaptation. Coherence between the Common Agricultural Policy and this Regulation should also be ensured. All sectors need to deliver their fair share as regards the reduction of greenhouse gas emissions.

(13) Wetlands are effective ecosystems for storing carbon. Therefore, protecting and restoring wetlands could reduce greenhouse gas emissions in the LULUCF sector. The Intergovernmental Panel on Climate Change ('IPCC') Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories relating to wetlands should be taken into account in this context.

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(14) To ensure the contribution of the LULUCF sector to the achievement of the Union's emission reduction target of at least 40 % and to the long-term goal of the Paris Agreement, a robust accounting system is needed. In order to obtain accurate accounts of emissions and removals in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Inventories ('IPCC Guidelines'), the annually reported values under Regulation (EU) No 525/2013 of the European Parliament and of the Council[8] for land use categories and the conversion between land use categories should be utilised, thereby streamlining the approaches used under the UNFCCC and the Kyoto Protocol. Land that is converted to another land use category should be considered to be in the process of transitioning to that category for the default value of 20 years referred to in the IPCC Guidelines. Member States should only be able to derogate from that default value for afforested land and only in limited circumstances justified under the IPCC Guidelines. Changes in the IPCC Guidelines as adopted by the Conference of the Parties to the UNFCCC or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement should be reflected, as appropriate, in the reporting requirements under this Regulation.

(15) The internationally agreed IPCC Guidelines state that emissions from the combustion of biomass can be accounted for as zero in the energy sector on condition that such emissions are accounted for in the LULUCF sector. In the Union, emissions from biomass combustion are currently accounted for as zero pursuant to Article 38 of Commission Regulation (EU) No 601/2012[9] and the provisions set out in Regulation (EU) No 525/2013, therefore consistency with the IPCC Guidelines would only be ensured if such emissions were reflected accurately in this Regulation.

(16) Emissions and removals from forest land depend on a number of natural circumstances, dynamic age-related forest characteristics, as well as on past and present management practices that differ substantially between the Member States. The use of a base year would not make it possible to reflect those factors and resulting cyclical impacts on, or the interannual variation of, emissions and removals. The relevant accounting rules should instead provide for the use of reference levels to exclude the effects of natural and country-specific characteristics. Forest reference levels should take account of any unbalanced age structure of forests and should not unduly constrain future forest management intensity, so that long-term carbon sinks can be maintained or strengthened. Given the particular historical situation of Croatia, its forest reference level could also take into account the occupation of its territory, and wartime and post-war circumstances that had an impact on forest management during the reference period. The relevant accounting rules take account of the principles of sustainable forest management as adopted in the Ministerial Conferences on the Protection of Forests in Europe ('Forest Europe').

(17) Member States should submit to the Commission national forestry accounting plans, including forest reference levels. In the absence of the international review under the UNFCCC or the Kyoto Protocol, a review procedure should be established to ensure transparency and improve the quality of accounting in the category of managed forest land.

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(18) When the Commission assesses the national forestry accounting plans, including the forest reference levels proposed therein, it should build on the good practice and experience of the expert reviews under the UNFCCC, including as regards participation of experts from the Member States. The Commission should ensure that experts from the Member States are involved in the technical assessment of whether the proposed forest reference levels have been determined in accordance with the criteria and requirements set out in this Regulation. The results of the technical assessment should be forwarded to the Standing Forestry Committee established by Council Decision 89/367/EEC[(10)] for information. The Commission should also consult stakeholders and civil society. The national forestry accounting plans should be made public in accordance with the relevant legislation.

(19) The increased sustainable use of harvested wood products can substantially limit emissions by the substitution effect and enhance removals of greenhouse gases from the atmosphere. The accounting rules should ensure that Member States accurately and transparently reflect in their LULUCF accounts changes in the carbon pool of harvested wood products when such changes take place, in order to recognise and incentivise the enhanced use of harvested wood products with long life-cycles. The Commission should provide guidance on issues related to the methodology concerning the accounting for harvested wood products.

(20) Natural disturbances, such as wildfires, insect and disease infestations, extreme weather events and geological disturbances, that are beyond the control of, and not materially influenced by, a Member State, can result in greenhouse gas emissions of a temporary nature in the LULUCF sector, or cause the reversal of previous removals. As such reversal can also be the result of management decisions, such as decisions to harvest or plant trees, this Regulation should ensure that human-induced reversals of removals are always accurately reflected in LULUCF accounts. Moreover, this Regulation should provide Member States with a limited possibility to exclude emissions resulting from disturbances that are beyond their control from their LULUCF accounts. However, the manner in which Member States apply those provisions should not lead to undue under-accounting.

(21) Depending on national preferences, Member States should be able to choose adequate national policies for achieving their commitments in the LULUCF sector, including the possibility of balancing emissions from one land category with removals from another land category. They should also be able to cumulate net removals over the period from 2021 to 2030. Transfers to other Member States should continue to be available as an additional option, and Member States should be able to use annual emissions allocations established pursuant to Regulation (EU) 2018/842 of the European Parliament and of the Council[(11)] for compliance under this Regulation. The use of flexibilities set out in this Regulation will not compromise the overall ambition level of the Union's greenhouse gas reduction targets.

(22) Forests managed in a sustainable way normally are sinks, contributing to climate mitigation. In the reference period from 2000 to 2009, the reported average removals by sinks from forest land were 372 million tonnes of CO_2 equivalent per year for the Union