Commission Delegated Regulation (EU) 2015/1844 of 13 July 2015 amending Regulation (EU) No 389/2013 as regards the technical implementation of the Kyoto Protocol after 2012 (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2015/1844

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amending Regulation (EU) No 389/2013 as regards the technical implementation of the Kyoto Protocol after 2012

(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(5) and (6) thereof,

Whereas:

(1) The Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) 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[(2)] (the Ratification Decision).

(2) The necessary technical implementation of the Doha Amendment to the Kyoto Protocol should be carried out in the Union Registry and in the national Kyoto Protocol registries. It is also necessary to ensure consistency with Directive 2003/87/EC of the European Parliament and of the Council[(3)] and Decision No 406/2009/EC of the European Parliament and of the Council[(4)] and a consistent implementation of internationally agreed accounting requirements, to optimise transparency and to ensure accuracy of the accounting of AAUs, RMUs, ERUs, CERs, tCERs and lCERs by the Union and the Member States, while avoiding, to the extent possible, administrative burdens and costs, including those relating to share of proceeds and IT development and maintenance.

(3) Once the Doha Amendment enters into force, the Union and the Member States will be required to issue in their respective Kyoto Protocol registries assigned amount units (AAUs) equal to their assigned amount determined in accordance with the Ratification Decision, adding any amounts resulting from the application of Article 3(7bis) of the Kyoto Protocol.

(4) Following any upwards adjustment of a Member State annual emission allocation under Article 10 of Decision No 406/2009/EC or Article 27 of Regulation (EU) No 525/2013,

it may have to acquire additional AAUs at the end of the second commitment period if it used this additional annual emission allocation to cover its emissions under Decision No 406/2009/EC or transferred it to another Member State. A Member State concerned may also use its Previous Period Surplus Reserve referred to in Article 3(13b) of Regulation (EU) No 525/2013 if its emissions are higher than its assigned amount. Any resulting AAU acquisition would be subject to the application of the share of the proceeds on the first international transfer of AAUs referred to in Article 10(1) of Regulation (EU) No 525/2013. Where appropriate, such situations may be considered accounting inconsistencies in matching the implementation of Union legislation with the rules agreed under the Kyoto Protocol within the meaning of Article 10(7) of Regulation (EU) No 525/2013.

(5) A clearing process at the end of the second commitment period of the Kyoto Protocol should be established to provide for the settlement in AAUs of any net transfers of annual emission allocations in accordance with Decision No 406/2009/EC.

(6) In accordance with Article 11a of Directive 2003/87/EC, stationary installation and aircraft operators can exchange CERs and ERUs for allowances. Exchanged CERs and ERUs valid for the first commitment period of the Kyoto Protocol potentially represent EU ETS emissions in the second commitment period. Since the Doha Amendment establishes limits on the carry-over of CERs and ERUs from the first to the second commitment period of the Kyoto Protocol, Member States should transfer to the Union a corresponding number of AAUs valid for the first commitment period to cover these potential emissions and the Union should transfer to the Member States the corresponding CERs and ERUs valid for the first commitment period of the Kyoto Protocol received from stationary installation and aircraft operators in exchange for allowances.

(7) Commission Regulation (EU) No 389/2013[(5)] should therefore be amended accordingly.

(8) This Regulation should enter into force as a matter of urgency as it is necessary to perform transitional transfers before the end of the additional period for fulfilling commitments under the first commitment period of the Kyoto Protocol referred to in Article 11(2) of Regulation (EU) No 525/2013.

(9) This Regulation should apply as of the date of entry into force of the Doha Amendment to the Kyoto Protocol, except in so far as it provides for transitional transfers,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 389/2013 is amended as follows:

(1) the following Article 73a is inserted:

Article 73a

Transfer of CERs and ERUs exchanged in the EU ETS

1 The central administrator shall inform each national administrator of the number of CERs and ERUs valid for the first commitment period transferred pursuant to Article 60 from operator holding accounts and aircraft operators holding accounts administered by that Member State. The central administrator shall add to that number a portion of the number of CERs and ERUs valid for the first commitment period transferred pursuant to Article 60 from operators holding accounts and aircraft operators holding accounts administered by Member States with no KP registry in the first commitment period, in proportion of Member States' respective numerical limits for the carry-over of CERs and ERUs from the first to the second commitment period.

2 Prior to the end of the additional period for fulfilling commitments under the first commitment period of the Kyoto Protocol referred to in Article 11(2) of Regulation (EU) No 525/2013, the central administrator shall transfer to each national KP registry a number of CERs and ERUs valid for the first commitment period from the EU International Credit Accounts equal to the total number determined pursuant to paragraph 1 of this Article.

3 The central administrator shall ensure that the EUTL prevents all transactions of units transferred pursuant to paragraph 1 with the exception of:

- a the cancellation of units in accordance with Article 10(1) of Regulation (EU) No 525/2013;
- b the retirement of units in accordance with Article 11 of Regulation (EU) No 525/2013;
- c the carry-over of units from the first to the second commitment period in accordance with Article 10(1) of Regulation (EU) No 525/2013;
- d the transfer of units within one KP registry.

4 Immediately after the transfer performed pursuant to paragraph 2, each national administrator shall transfer a number of AAUs to a relevant Party holding Account in the Union Registry equal to the number of credits returned to that Member State pursuant to paragraph 2.

(2) the following Articles 73b to 73g are inserted:

Article 73b

Issuance and Deposit of AAUs

1 Prior to the retirement transaction in accordance with Article 11(3) of Regulation (EU) No 525/2013 of the European Parliament and of the Council[(6)], the central administrator shall:

- a issue a number of AAUs equal to the Union assigned amount determined in accordance with Council Decision (EU) 2015/1339[(7)] in the EU AAU Account in the Union Registry;
- b immediately transfer a number of AAUs equal to the number of general allowances created pursuant to Commission Decision 2010/634/EU[(8)] from

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2015/1844. (See end of Document for details)*

the EU AAU Account to the ETS AAU Deposit Account in the Union Registry.

2 At the latest 3 months after the closure of the ESD Compliance Account for 2020 pursuant to Article 31, each national administrator shall:

a issue a number of AAUs equal to its respective Member State assigned amount determined pursuant to the Ratification Decision in a Party holding Account in its KP registry;

b immediately transfer a number of AAUs equal to the total number of AEAs corresponding to the annual emission allocation for its Member State for all years pursuant to Article 3(2) of Decision No 406/2009/EC as determined prior to any amendment pursuant to Article 27(2) of Regulation (EU) No 525/2013 from the Party holding Account to the ESD AAU Deposit Account in its KP registry.

3 Before the completion of the clearing processes pursuant to Article 73f, the central administrator shall ensure that the EUTL prevents all transactions of AAUs from the ETS AAU Deposit Account or from the ESD AAU Deposit Accounts, with the exception of:

a the cancellation or the transfer of a number of AAUs less than or equal to the number of AEAs transferred to the ESD Deletion Account pursuant to Article 88(2);

b the retirement of a number of AAUs in accordance with Article 11(3) of Regulation (EU) No 525/2013, equal to the number of AEAs transferred to the ESD Deletion Account pursuant to Article 31(4) of this Regulation corresponding to the quantity of GHG emissions entered in the ESD Compliance Account pursuant to Article 77 of this Regulation;

c the cancellation or the transfer of a number of AAUs less than or equal to the number of AEAs transferred to the ESD Deletion Account pursuant to Article 31(4) that exceed the quantity of GHG emissions entered in the ESD Compliance Account pursuant to Article 77;

d transfers required for the purposes of the clearing processes pursuant to Article 73f;

e the conversion of AAUs into ERUs, provided that a number of AEAs equal to the number of AAUs to be converted plus the number of ERUs required to satisfy the share of proceeds levy referred to in Article 10(1) of Regulation (EU) No 525/2013 have been transferred to the ESD Deletion Account pursuant to Article 31(4) of this Regulation.

Article 73c

Transfer and use of units

1 The central administrator shall ensure that the EUTL prevents transactions involving CERs, ERUs, tCERs and lCERs which have been used in accordance with Article 81 with the exception of:

a the transfer of units from the ESD Compliance Account in the Union Registry to the relevant MS KP registry pursuant to Article 31(3);

b the retirement of units pursuant to Article 11 of Regulation (EU) No 525/2013;

c the carry-over of units from the first to the second commitment period in accordance with Article 10(1) of Regulation (EU) No 525/2013.