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 (Text with EEA relevance)

REGULATION (EU) No 525/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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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) Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol[(4)] established a framework for monitoring anthropogenic greenhouse gas emissions by sources and greenhouse gas removals by sinks, evaluating progress towards meeting commitments in respect of those emissions and implementing monitoring and reporting requirements under the United Nations Framework Convention on Climate Change (UNFCCC)[(5)] and the Kyoto Protocol[(6)] in the Union. In order to take into account recent and future developments at international level relating to the UNFCCC and the Kyoto Protocol, and in order to implement new monitoring and reporting requirements provided for in Union law, Decision No 280/2004/EC should be replaced.

(2) Decision No 280/2004/EC should be replaced by a Regulation on account of the broader scope of Union law, the inclusion of additional categories of persons to which obligations are addressed, the more complex and highly technical nature of provisions introduced, the increased need for uniform rules applicable throughout the Union, and in order to facilitate implementation.

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(3) The ultimate objective of the UNFCCC is to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. In order to meet that objective, the overall global annual mean surface temperature increase should not exceed 2 °C above pre-industrial levels.

(4) There is a need for thorough monitoring and reporting, and for regular assessment of Union and Member States' greenhouse gas emissions and of their efforts to address climate change.

(5) Decision 1/CP.15 of the Conference of the Parties to the UNFCCC (Decision 1/CP.15) and Decision 1/CP.16 of the Conference of the Parties to the UNFCCC (Decision 1/CP.16) contributed significantly to progress in addressing the challenges raised by climate change in a balanced manner. Those Decisions introduced new monitoring and reporting requirements that apply to the implementation of ambitious emission reductions to which the Union and its Member States have committed themselves, and provided support to developing countries. Those Decisions also recognised the importance of addressing adaptation with the same priority as mitigation. Decision 1/CP.16 also requires that developed countries develop low-carbon development strategies or plans. Such strategies or plans are expected to contribute towards building a low-carbon society and ensure continued high growth and sustainable development, as well as moving in a cost-effective manner towards the long-term climate target, giving due consideration to the intermediary stages. This Regulation should facilitate the implementation of those monitoring and reporting requirements.

(6) The set of Union legal acts, adopted in 2009, collectively referred to as the 'Climate and Energy package' in particular Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020[(7)] and Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community[(8)], marks another firm commitment by the Union and the Member States to significantly reduce their greenhouse gas emissions. The Union's system for monitoring and reporting emissions should also be updated in the light of new requirements under those two legal acts.

(7) Under the UNFCCC, the Union and its Member States are required to develop, regularly update, publish and report to the Conference of the Parties national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol of 1987 on substances that deplete the ozone layer to the Vienna Convention for the Protection of the Ozone Layer[(9)] (the Montreal Protocol) using comparable methodologies agreed by the Conference of the Parties.

(8) Article 5(1) of the Kyoto Protocol requires the Union and the Member States to establish and maintain a national system for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, with a view to ensuring the implementation of other provisions of the Kyoto Protocol. In doing so, the Union and the Member States should apply the guidelines

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for national systems set out in the Annex to Decision 19/CMP.1 of the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol (Decision 19/CMP.1). In addition, Decision 1/CP.16 requires the establishment of national arrangements to estimate anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. This Regulation should enable both of those requirements to be implemented.

(9) Cyprus and Malta are included in Annex I to the UNFCCC pursuant to Decision 10/CP.17 of the Conference of the Parties to the UNFCCC, effective from 9 January 2013, and Decision 3/CP.15 of the Conference of the Parties to the UNFCCC, effective from 26 October 2010, respectively.

(10) The experience gained in implementing Decision No 280/2004/EC has shown the need to increase synergies and coherence with reporting under other legal instruments, in particular with 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[(10)], with Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register[(11)], with Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants[(12)], with Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases[(13)], and with Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics[(14)]. While streamlining reporting requirements will require the amendment of individual legal instruments, the use of consistent data to report greenhouse gas emissions is essential to ensuring the quality of emissions reporting.

(11) The Fourth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC) identified a global warming potential (GWP) for nitrogen trifluoride (NF_3) which is approximately 17 000 times that of carbon dioxide (CO_2). NF_3 is increasingly being used in the electronics industry to replace perfluorocarbons (PFCs) and sulphur hexafluoride (SF_6). In accordance with Article 191(2) of the Treaty on the Functioning of the European Union (TFEU), Union environment policy must be based on the precautionary principle. That principle requires the monitoring of NF_3 to assess the level of emissions in the Union and, if required, to define mitigation action.

(12) 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 and small and medium-sized enterprises (SMEs) burdens that are disproportionate to the objectives pursued. CO_2 emissions from flights 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

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as being equal to zero for the purposes of Article 3 and Article 7(1) of Decision No 406/2009/EC.

(13) In order to ensure the effectiveness of the arrangements for monitoring and reporting greenhouse gas emissions, it is necessary to avoid further adding to the financial and administrative burden already being borne by the Member States.

(14) Whilst emissions and removals of greenhouse gases relating to land use, land-use change and forestry (LULUCF) count towards the Union's emissions reduction target under the Kyoto Protocol, they are not part of the 20 % target for 2020 under the Climate and Energy package. Article 9 of Decision No 406/2009/EC requires the Commission to assess modalities for the inclusion of emissions and removals from activities relating to LULUCF in the Union's greenhouse gas emission reduction commitment, ensuring permanence and the environmental integrity of the contribution of LULUCF, and providing for accurate monitoring and accounting of the relevant emissions and removals. It also requires the Commission to submit a legislative proposal, as appropriate, with the aim of it entering into force as from 2013. On 12 March 2012, the Commission submitted to the European Parliament and to the Council a proposal as a first step towards the inclusion of the LULUCF sector in the Union's emission reduction commitment, which resulted in the adoption of Decision No 529/2013/EU of the European Parliament and of the Council of 21 May 2013 on accounting rules on greenhouse gas emissions and removals resulting from activities relating to land use, land-use change and forestry and on information concerning actions relating to those activities[(15)].

(15) The Union and the Member States should strive to provide the most up-to-date information on their greenhouse gas emissions, in particular under the framework of the Europe 2020 strategy and its specified timelines. This Regulation should enable such estimates to be prepared in the shortest timeframes possible by using statistical and other information, such as, where appropriate, space-based data provided by the Global Monitoring for Environment and Security programme and other satellite systems.

(16) Since the Commission has announced that it intends to propose new monitoring and reporting requirements for emissions from maritime transport, including amendments to this Regulation as appropriate, this Regulation should not prejudge any such proposal, and therefore provisions on the monitoring and reporting of emissions from maritime transport should not be included in this Regulation at this time.

(17) The experience gained in implementing Decision No 280/2004/EC demonstrated the need to improve transparency, accuracy, consistency, completeness and comparability of information reported on policies and measures and on projections. Decision No 406/2009/EC requires that Member States report their projected progress towards meeting their obligations under that Decision, including information on national policies and measures and on national projections. The Europe 2020 strategy set an integrated economic policy agenda requiring the Union and the Member States to make further efforts on the timely reporting of climate change policies and measures and their projected effects on emissions. Creating systems at Union and Member State level coupled with better guidance on reporting should significantly contribute towards those

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goals. In order to ensure that the Union meets its international and internal reporting requirements on greenhouse gas projections and to evaluate its progress towards meeting its international and internal commitments and obligations, the Commission should also be able to prepare and use greenhouse gas projection estimates.

(18) Improved information from Member States is needed to monitor their progress and action in adapting to climate change. This information is needed to devise a comprehensive Union adaptation strategy pursuant to the Commission White Paper of 1 April 2009 entitled 'Adapting to climate change: Towards a European framework for action'. The reporting of information on adaptation will enable Member States to exchange best practices and evaluate their needs and level of preparedness to deal with climate change.

(19) Under Decision 1/CP.15, the Union and the Member States committed to providing substantial climate financing to support adaptation and mitigation action in developing countries. In accordance with paragraph 40 of Decision 1/CP.16, each developed country Party to the UNFCCC must enhance reporting on the provision of financial, technological and capacity-building support to developing country Parties. Enhanced reporting is essential to recognising the efforts made by the Union and Member States to meet their commitments. Decision 1/CP.16 also established a new 'Technology Mechanism' to enhance international technology transfer. This Regulation should ensure reporting of up-to-date information on technology transfer activities to developing countries based on the best data available.

(20) Directive 2008/101/EC of the European Parliament and of the Council[(16)] amended Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Union. Directive 2003/87/EC contains provisions on the use of auctioning revenue, on reporting on the use of auctioning revenue by Member States, and on the action taken pursuant to Article 3d of that Directive. Directive 2003/87/EC, as amended by Directive 2009/29/EC, now also contains provisions on the use of auctioning revenue, and states that at least 50 % of such revenue should be used for the purpose of one or more of the activities referred to in Article 10(3) of Directive 2003/87/EC. Transparency on the use of revenue generated from the auctioning of allowances under Directive 2003/87/EC is key to underpinning Union commitments.

(21) Under the UNFCCC, the Union and its Member States are required to develop, regularly update, publish and report to the Conference of the Parties national communications and biennial reports using the guidelines, methodologies and formats agreed upon by the Conference of the Parties. Decision 1/CP.16 calls for enhanced reporting on mitigation targets and on the provision of financial, technological and capacity-building support to developing country Parties.

(22) Decision No 406/2009/EC converted the current annual reporting cycle into an annual commitment cycle requiring a comprehensive review of Member States' greenhouse gas inventories within a shorter time frame than the current UNFCCC inventory review, to enable the use of flexibilities and the application of corrective action, where necessary, at the end of each relevant year. Setting up at Union-level a review process