



Council of the  
European Union

010226/EU XXVI. GP  
Eingelangt am 05/02/18

Brussels, 5 February 2018  
(OR. en)

5864/18

CLIMA 21  
ENV 61  
ENER 39  
TRANS 51  
IND 37  
ONU 3  
FORETS 2  
ECOFIN 81  
COMPET 56  
DELACTION 24

#### COVER NOTE

---

From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 1 February 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

---

No. Cion doc.: COM(2018) 52 final

---

Subject: REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT  
AND THE COUNCIL on the exercise of the power to adopt delegated acts  
conferred on the Commission pursuant 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

---

Delegations will find attached document COM(2018) 52 final.

---

Encl.: COM(2018) 52 final



Brussels, 1.2.2018  
COM(2018) 52 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**on the exercise of the power to adopt delegated acts conferred on the Commission pursuant 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. Introduction and legal basis

The Climate Monitoring Mechanism Regulation (MMR)<sup>1</sup> lays down a robust transparency framework for greenhouse gas emissions and other information relevant to climate change. It includes the elements necessary to track progress of the implementation of EU climate legislation, notably the Effort Sharing Decision<sup>2</sup>, and the EU's international commitments under the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol.

The MMR empowers the Commission to adopt delegated acts, as referred to in Article 25(2), with a view to:

- establishing substantive requirements for a Union inventory system, as provided for in Article 6(2);
- adding or deleting substances to or from the list of greenhouse gases in Annex I to the MMR or adding, deleting or amending indicators in its Annex III, and taking account of changes in global warming potentials and internationally agreed inventory guidelines, as provided for in Article 7(6); and
- setting up the Union registry, as referred to in Article 10(4).

The present report is required under Article 25(2) of the MMR. Under Article 25(2), the Commission has the power to adopt delegated acts referred to in Articles 6, 7 and 10(4) for a period of five years from 8 July 2013. The Commission is required to prepare a report in respect of this delegation of power not later than nine months before the end of the five-year period.

The MMR has been amended in 2014 as regards the technical implementation of the Kyoto Protocol<sup>3</sup>. By this amendment, the Commission has furthermore been empowered to adopt delegated acts related to the technical implementation of the second commitment period of the Kyoto Protocol in the Union, as provided for in Article 10(5) and (6) of the MMR. According to Article 25(2a) of the MMR, the powers referred to in Article 10(5) and (6) have been conferred on the Commission from the date of conclusion by the Union of the Doha Amendment to the Kyoto Protocol to the end of the additional period for fulfilling commitments under the second commitment period of the Kyoto Protocol. As these powers have been conferred on the Commission for a precisely defined time period without extension, and are not referred to in Article 25(2), they are not covered in this report.

---

<sup>1</sup> 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 (OJ L 165, 18.6.2013, p. 13).

<sup>2</sup> 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 (OJ L 140, 5.6.2009, p. 136).

<sup>3</sup> Regulation (EU) No 662/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EU) No 525/2013 as regards the technical implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (OJ L 189, 27.6.2014, p. 155).

On 30 November 2016, the Commission put forward a proposal for a Regulation on the Governance of the Energy Union<sup>4</sup>. The proposal fully integrates the MMR to promote integration between the energy and climate fields, repealing the MMR as of 1 January 2021. Until that date, the MMR will remain in force as the relevant framework for monitoring and reporting greenhouse gas emissions and removals and other climate information.

## **2. Exercise of the delegation**

### **2.1. Substantive requirements for a Union inventory system and taking into account changes in the global warming potentials and internationally agreed inventory guidelines (Articles 6(2) and 7(6)(b))**

Article 6(2) empowers the Commission to adopt delegated acts concerning the substantive requirements for a Union inventory system in order to fulfil the obligations pursuant 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, which lays down the guidelines for national systems the Parties should apply. On 12 March 2014, the Commission adopted the Commission Delegated Regulation (EU) No 666/2014<sup>5</sup>. This Regulation specifies the rules on the Union inventory system in order to fulfil international obligations as required by Decision 19/CMP.1. It thereby ensures the timeliness, transparency, accuracy, consistency, comparability and completeness of reporting of greenhouse gas emissions to the UNFCCC Secretariat. It sets out the requirements of the Union inventory system, further specifying rules on the preparation and administration of the Union greenhouse gas inventory including rules on cooperation with the Member States during the annual reporting process and the UNFCCC inventory review.

Article 7(6)(b) empowers the Commission to adopt delegated acts to take account of changes in global warming potential values and internationally agreed inventory guidelines in accordance with relevant decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from them or succeeding them. Commission Delegated Regulation (EU) No 666/2014 takes account of these changes and lays down rules with regard to the global warming potential values and the internationally agreed inventory guidelines to be used by the Member States and the Commission in the determination and reporting of the greenhouse gas inventory, thereby ensuring consistency with the implementation of monitoring and reporting requirements under the UNFCCC and Kyoto Protocol.

---

<sup>4</sup> Proposal for a Regulation of the European Parliament and of the Council on the Governance of the Energy Union, amending Directive 94/22/EC, Directive 98/70/EC, Directive 2009/31/EC, Regulation (EC) No 663/2009, Regulation (EC) No 715/2009, Directive 2009/73/EC, Council Directive 2009/119/EC, Directive 2010/31/EU, Directive 2012/27/EU, Directive 2013/30/EU and Council Directive (EU) 2015/652 and repealing Regulation (EU) No 525/2013, COM(2016) 759 final.

<sup>5</sup> Commission Delegated Regulation (EU) No 666/2014 of 12 March 2014 establishing substantive requirements for a Union inventory system and taking into account changes in the global warming potentials and internationally agreed inventory guidelines pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L179, 19.6.2014, p. 26).

The Commission will continue to monitor whether new decisions are adopted at international level which would warrant changes. If appropriate, it will aim at adopting delegated acts in this regard.

## **2.2 Annex I and Annex III of the MMR (Article 7(6)(a))**

Article 7(6)(a) empowers the Commission to add or delete substances to or from the list of greenhouse gases in Annex I to the MMR or to add, delete or amend indicators in Annex III to the MMR in accordance with relevant decisions adopted by the bodies of the UNFCCC or the Kyoto Protocol or of agreements deriving from them or succeeding them. The Commission considers that no decisions have been adopted by bodies of the UNFCCC or the Kyoto Protocol which would lead to the Commission invoking this legal basis. Therefore, the Commission has not made use of this empowerment yet. The Commission will continue to monitor the developments at international level and, if appropriate, prepare delegated acts in this regard.

## **2.3. Setting up the Union Registry (Article 10(4))**

Commission Regulation (EU) No 389/2013<sup>6</sup> lays down the registries system which ensures the accurate accounting of transactions under the Union emission trading scheme (EU ETS)<sup>7</sup>, the Kyoto Protocol, and the Effort Sharing Decision. The legal basis for the Registry Regulation is set out in three legal acts: the EU Emissions Trading System Directive (Article 19), the MMR (Article 10(4), and Articles 10(5) and (6) as regards the second commitment period of the Kyoto Protocol), and the Effort Sharing Decision (Article 11(3)). As the Registry Regulation was adopted before the entry into force of the MMR, the Registry Regulation has been based on its predecessor, the Monitoring Mechanism Decision<sup>8</sup> (Article 6(1)). Article 10(4) of the MMR provides for the continued legal basis for the Registry Regulation in relation to the Kyoto Protocol. The Commission has not yet adopted a new delegated act on the basis of Article 10(4) of the MMR. However, the revision of the Registry Regulation is ongoing and the expected scope of the amendment will include provisions relating to the first commitment period of the Kyoto Protocol. Therefore, the use of this legal basis is foreseen.

## **3. Conclusion**

Over the past five years, the Commission has adopted one delegated act establishing substantive requirements for a Union inventory system and taking into account changes in the global warming potentials and internationally agreed inventory guidelines. The Commission

---

<sup>6</sup> Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (OJ L122, 3.5.2013, p. 1), the Registry Regulation.

<sup>7</sup> 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 (OJ L 275, 25.10.2003, p. 32).

<sup>8</sup> 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 (OJ L 49, 19.2.2004, p. 1).

will continue to monitor the developments at international level and if appropriate prepare delegated acts to ensure consistency. The Commission will also continue monitoring the implementation of the adopted delegated regulations and provide for changes to these rules should the practical developments require it.