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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	31 October 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2025) 657 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the Joint Committee established by the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems as regards amending Annex I to the Agreement

Delegations will find attached document COM(2025) 657 final.

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2025/0334 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Joint Committee established by the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems as regards amending Annex I to the Agreement

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Joint Committee established by the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems, as regards amending Annex I to the Agreement

2. CONTEXT OF THE PROPOSAL

2.1. The Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems

The Agreement between the European Union and the Swiss Confederation linking their greenhouse gas emissions trading systems¹ ('the Agreement') connects the EU Emissions Trading System (EU ETS) with the Emissions Trading System of Switzerland, by allowing allowances issued in one system to be traded and used for compliance in the other one. The Agreement entered into force on 1 January 2020.

2.2. The Joint Committee

The Joint Committee, established by Article 12 of the Agreement, is responsible for administering the Agreement and ensuring its implementation. It can decide to adopt new annexes to the Agreement or amend existing ones.

Article 13(2) of the Agreement provides that the Joint Committee may decide to adopt a new Annex or to amend an existing Annex to the Agreement.

2.3. The envisaged act of the Joint Committee

During its eighth meeting, which will be held in 2025, or earlier by means of the written procedure pursuant to Article 8(4) of the Rules of Procedure of the Joint Committee², the Joint Committee is to adopt a decision regarding amendments to Annex I to the Agreement ('the envisaged act').

The purpose of the envisaged act is to align the essential criteria laid down in Annex I to updated legislation in both the European Union and the Swiss Confederation.

The envisaged act will become binding on the Parties in accordance with Article 13(2) of the Agreement. Furthermore, and in accordance with Article 12(3) of the Agreement, decisions taken by the Joint Committee in the cases provided for in this Agreement will, upon their entry into force, be binding on the Parties.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The Council Decision based on this proposal from the Commission determines the position of the European Union on the Decision of the Joint Committee to be taken on amending Annex I.

¹ OJ L 322, 7.12.2017, p 3.

² Decision No 1/2019 of the Joint Committee established by the Agreement between the European Union and the Swiss Confederation on the Linking of their Greenhouse Gas Emissions Trading Systems of 25 January 2019 regarding the adoption of its Rules of Procedure, available from https://ec.europa.eu/clima/system/files/2021-07/20191201_jc_dec_rop_en.pdf and Council Decision (EU) 2018/1279 of 18 September 2018, OJ L 239 of 24.9.2018, p.8.

Amendments to Annex I to the Agreement are necessary in view of the changes to the regulatory environment that evolved in both the European Union and Switzerland since the last amendments in Decision No 1/2023 of the Joint Committee³. The European Parliament and the Council adopted changes⁴ to Directive 2003/87/EC⁵ with a view to determining an appropriate contribution of the emissions trading system of the EU to the emissions reduction target by 2030 laid down in Regulation (EU) 2021/1119 of the European Parliament and of the Council⁶. These changes have to be reflected in Annex I to the Agreement to maintain compatibility and market integrity of the linked systems, avoid distortion of competition between as well as carbon leakage from the linked systems.

In part A (stationary installations) of Annex I, the relevant changes to the text of the EU column that is meant to demonstrate compliance with the essential criteria following the adoption of the revised version of Directive 2003/87/EC⁷ mainly concern editorial adaptations with respect to the entry into force of the relevant legal texts on the EU side (amendments to essential criteria no 2, 3, 6, 10, 11, 12, 13) and updates of the legal references (amendments to essential criteria no 5 and 10). Only the text of criterion 4 has been amended with a view to representing the outcome of the revised Directive 2003/87/EC⁸ in both columns of the EU and Switzerland. All other amendments to the column of Switzerland in Part A of Annex I are editorial adaptations with respect to the entry into force of the relevant legal texts.

As for Part B (aviation operators) of Annex I, compliance of the text in the column of the EU with the essential criteria requires changes with respect to the entry into force of the relevant legal provisions (criteria 12 and 14) and, in addition, updating the legal references (criteria 2, 4, 5 and 7). Furthermore, the text of criteria 4, 11 and 12 in the EU column has been adjusted to correctly depict the outcome of the revision of Directive 2003/87/EC⁹. For the same reason, the title of essential criteria 8 has been changed and the text in the EU column accordingly adjusted. This also goes for criterion 6, where the columns of the EU and Switzerland have been merged and a common text introduced.

In the Swiss column of Part B, editorial changes with respect to the entry into force of the relevant Swiss legislation became necessary for essential criteria 2, 5, 13, 14 and 15. This also applies to criteria 4, 8 and 12, which, on top, show an update of the legal reference. Furthermore, like in the EU column, the texts of criteria 4, 7 and 11 of the Swiss column have been adjusted to mirror the approach described in the EU column.

³ OJ L of 25.1.2024, 2024/301, ELI: <http://data.europa.eu/eli/dec/2024/301/oj>

⁴ Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure, OJ L 130 of 16.5.2023, p 115, and Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system, OJ L 130 of 16.5.2023, p 134

⁵ 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 and amending Council Directive 96/61/EC, OJ L 275, 25.10.2003, p. 32

⁶ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1.

⁷ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC

⁸ See footnote 4

⁹ Ibid.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing ‘*the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.*’

4.1.2. Application to the present case

The Joint Committee is a body set up pursuant to Article 12 of the Agreement.

The act which the Joint Committee is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 12(3) of the Agreement.

The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to environment.

Therefore, the substantive legal basis of the proposed decision is Article 192(1) TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 192(1) TFEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

As the act of the Joint Committee will amend Annex I to the Agreement, it is appropriate to publish it in the *Official Journal of the European Union* after its adoption.

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Joint Committee established by the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems as regards amending Annex I to the Agreement

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems ('the Agreement') was concluded by the Union by Council Decision (EU) 2018/219¹ and entered into force on 1 January 2020.
- (2) Pursuant to Article 12(3) of the Agreement, the Joint Committee may adopt decisions that are to, upon their entry into force, be binding on the Parties.
- (3) Article 13(2) of the Agreement provides that the Joint Committee may amend the Annexes to the Agreement.
- (4) It is appropriate to restore consistency with legal provisions applicable to the emissions trading systems of the European Union and the Swiss Confederation following the revision of Directive 2003/87/EC of the European Parliament and of the Council² by means of Directives (EU) 2023/958³ and 2023/959⁴.
- (5) The Joint Committee, during its eighth meeting, or earlier by means of the written procedure pursuant to Article 8(4) of the Rules of Procedure of the Joint Committee, is

¹ Council Decision (EU) 2018/219 of 23 January 2018 on the conclusion of the Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems (OJ L 43 of 16.2.2018, p. 1).

² 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 and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32), and

³ Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure (OJ L 130, 16.5.2023, p. 115).

⁴ Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (OJ L 130, 16.5.2023, p. 130).

expected to adopt a Decision amending Annex I to the Agreement. That Decision will be binding on the Union.

- (6) It is therefore necessary to establish the position to be taken on the Union's behalf in the Joint Committee with regard to the amendment of Annex I to the Agreement.
- (7) The position of the Union should be based on the attached draft Decision in order to maintain compatibility and market integrity of the two linked systems and to avoid distortion of competition and carbon leakage,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf, during the eighth meeting of the Joint Committee, or earlier by means of the written procedure pursuant to Article 8(4) of the Rules of Procedure of the Joint Committee, with regard to the amendment of Annex I to the Agreement shall be based on the draft Decision of the Joint Committee attached to this Decision.

Minor changes to the draft Decision may be agreed to by the representatives of the Union in the Joint Committee without further decision of the Council.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the Council
The President