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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT Subsidiarity Grid *Accompanying the documents* Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC and Decision (EU) 2015/1814 as regards driving competitiveness and cost-effective decarbonisation REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC as regards revised benchmark values for the heat and fuel benchmarks period from 2026 to 2030 REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2015/757 and Regulation (EU) 2023/1805 to simplify and streamline monitoring, reporting and verification and to align with revisions of the EU Emissions Trading System

Delegations will find attached document SWD(2026) 618 final.

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COMMISSION STAFF WORKING DOCUMENT

Subsidiarity Grid

Accompanying the documents

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC and Decision (EU) 2015/1814 as regards driving competitiveness and cost-effective decarbonisation

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC as regards revised benchmark values for the heat and fuel benchmarks period from 2026 to 2030

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2015/757 and Regulation (EU) 2023/1805 to simplify and streamline monitoring, reporting and verification and to align with revisions of the EU Emissions Trading System

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Subsidiarity Grid

1. Can the Union act? What is the legal basis and competence of the Unions' intended action?
1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?
Articles 191, 192 and 193 of the Treaty on the Functioning of the European Union empower the EU to act to preserve, protect, and improve the quality of the environment; protect human health; and promote measures at the international level to deal with regional or worldwide environmental problems. The legal basis of the three linked proposals (the main proposal to amend the ETS Directive and MSR Decision, the separate proposal to amend the ETS Directive as regards revised benchmark values for the heat and fuel benchmarks for the period from 2026 to 2030, and the separate proposal to amend the Maritime MRV Regulation and FuelEU Maritime Regulation to align with the revisions of the ETS Directive) is Article 192(1), as this initiative is being taken to combat climate change and to serve the other environmental objectives specified in Article 191. The ETS has been operating on this legal basis since 2003. The European Parliament and the Council have adopted all amendments to the ETS Directive, the MSR Decision, the Maritime MRVA Regulation and FuelEU Maritime Regulation on this legal basis.
1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?
In the case of Environment, the Union's competence is shared.
Subsidiarity does not apply for policy areas where the Union has ***exclusive*** *competence as defined in Article 3 TFEU*[1]*. It is the specific legal basis which determines whether the proposal falls under the subsidiarity control mechanism. Article 4 TFEU*[2] *sets out the areas where competence is shared between the Union and the Member States. Article 6 TFEU*[3] *sets out the areas for which the Unions has competence only to support the actions of the Member States.*
2. Subsidiarity Principle: Why should the EU act?
2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2[4]**:** - Has there been a wide consultation before proposing the act? - Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level?
The Commission consulted national, regional and local public authorities; private-sector stakeholders including individual companies and business associations; non-governmental and environmental organisations; academic and research institutions; trade unions; and individuals, at various steps during the development of this proposal. The revision of the ETS Directive and the MSR Decision and the corresponding revision of the Maritime MRV Regulation and FuelEU Maritime Regulation to align with the revisions of the ETS Directive build upon the feedback gathered as part of a back-to-back evaluation of the current framework and an impact assessment for the review. The Commission organised an online public consultation with a questionnaire on each of the areas under evaluation and review, receiving a

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E003&from=EN
[2] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E004&from=EN
[3] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E006:EN:HTML
[4] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN

total of 540 responses while collecting more than 400 position papers and feedback inputs to the call for evidence from across different stakeholder groups. In addition, targeted interviews were conducted and the Commission participated in multiple (virtual) bilateral and multilateral stakeholder meetings and conferences to discuss the revision of the EU ETS, including with companies and business associations across different sectors, trade unions, non-governmental organisations and public authorities of Member States. To support the revision in relation to maritime-related topics, a joint meeting of the European Sustainable Shipping Forum sub-group on the implementation of MRV and ETS Maritime (ESSF) and the Climate Change Expert Group (CCEG Maritime) was held. Finally, the Commission also instructed contractors to collect views and inputs on the implementation of MRVA rules for stationary installations and maritime operators through detailed questionnaires.

In parallel, the Commission also organised a targeted workshop on the EU ETS with over 50 representatives from stationary installations across the EU on 29 January 2026. It focused on experiences with practical implementation and identification of areas for simplification and streamlining of compliance processes and requirements. Finally, the Commission also organised a high-level stakeholder roundtable on the review of the EU ETS on 12 May 2026. The round table complemented the public consultation and gathered additional input on the policy priorities to guide the upcoming review of the EU ETS and the MSR for the 2031-2040 period and the complementary instruments needed to make decarbonisation a driver of EU competitiveness and resilience.

For the separate proposal to amend the ETS Directive as regards revised benchmark values for the heat and fuel benchmarks for the period from 2026 to 2030, the Commission consulted the expert group on free allocation on the benchmark values for the period 2026-2030 in different stages of the process leading up to their determination, with preliminary results presented on 5 November 2025, 15 December 2025 and 21 January 2026. The update of ETS benchmark values for 2026-2030 has been published for public feedback between 11 May until 8 June 2026 and received more than 400 replies. Overall, most of the feedback concerned the fallback benchmarks update and asked to establish sector-specific fall-back benchmarks. On 3 June, two expert group meetings were held, one with the Member States, and one with Member States and industry representatives on the update of ETS benchmark values for the years 2026-2030. The option for sector-specific fallbacks was presented to Member States and highlighted as generating insufficient increase to free allocation levels until 2030 calculated on the basis of fallback benchmarks for sectors at higher risk of carbon leakage due to limited availability of abatement techniques and measures. On the 15 June 2026, the Climate Change Committee voted in favour of the adoption of the update of ETS benchmark values for 2026-2030. The results of the consultation activities are reported in the explanatory memoranda and the impact assessment accompanying the proposals.

The explanatory memoranda and the impact assessment (chapter 3) contain sections on the principle of subsidiarity – see question 2.2 below.

2.2 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?

Yes, they do. The explanatory memoranda (as well as the accompanying impact assessment covering all three proposals) explain that climate change is by its very nature a trans-boundary challenge that cannot be solved by national or local action alone. Coordinated EU action can effectively supplement and reinforce national and local action and enhances climate action. Free allocation is harmonised in the EU ETS and administered at national level under harmonised Union-wide rules.

Although initiatives at the national, regional and local level can create synergies, alone they will not be sufficient. On their own, individual Member States' carbon markets would represent too small a market to achieve the same level of results. Therefore, an EU wide approach is needed to drive industry level changes and to create economies of scale.
2.3 Based on the answers to the questions below, can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?
These proposals aim increase the contribution of emissions trading in a manner commensurate with the overall EU net emissions reduction target of at least 90% for 2040. This objective cannot be achieved by the Member States alone as it requires cost-efficient emissions reductions across the Union, while ensuring a level playing field, environmental integrity and the integrity of the single market, as well as increased resources that cannot be ensured by each of the Member States acting alone.
(a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified?
Climate change is a trans-boundary problem and both international and EU action can effectively complement and reinforce regional, national and local action. The European Climate Law makes the EU's climate neutrality target legally binding and set the 2040 target of at least 90% net emission reductions by 2040 compared to 1990. Adjusting the ETS to the 2040 target for EU GHG reductions, including revising the corresponding legal acts to align with the revision of the ETS, will affect many sectors across the EU economy and coordinated action at the EU level is therefore indispensable and has a much bigger chance of leading to the necessary transformation, acting as a strong driver for cost-effective change and upward convergence. Furthermore, many of the policy elements assessed in this impact assessment have an important internal market dimension.
(b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty[5] or significantly damage the interests of other Member States?
Economy-wide emission reductions to combat climate change are necessary to fulfil the objectives of Article 192 TFUE, of preserving, protecting and improving the quality of the environment, protecting human health, as well as to promote measures at international level to deal climate change. The absence of EU level action could lead to 'environmental dumping' between the Member States, where Member States compete for the least stringent climate change measures to benefit their own economies, damaging the internal market and weakening climate action. An urgent climate transition requires a high degree of investments. As a result, foregoing the benefits of economies of scale and the possibility of reducing emissions where they are more cost-effective, would result in a slower climate transition due to increased costs and less available funds.
(c) To what extent do Member States have the ability or possibility to enact appropriate measures?
Member States are able to act to reduce greenhouse gas emissions that are under the scope of the EU ETS through other national policies and measures. However, they are not able to so to an extent that equally ensures a level playing field, environmental integrity and the integrity of the single market as an EU-level carbon market.

[5] https://europa.eu/european-union/about-eu/eu-in-brief_en

(d) How does the problem and its causes (e.g. negative externalities, spill-over effects) vary across the national, regional and local levels of the EU?
European land temperatures have increased even faster than global mean temperatures between 2015 and 2024 by 2.19 to 2.26°C. Flooding, droughts, heatwaves and other climate-related hazards are becoming more frequent and severe. These hazards carry significant health and economic impacts. While some regions and communities are more vulnerable than others, climate change risks are increasing across Europe.
(e) Is the problem widespread across the EU or limited to a few Member States?
The need to address climate change is widespread across the EU – see also point 2.3.(d).
(f) Are Member States overstretched in achieving the objectives of the planned measure?
The ETS Directive, supported by the corresponding legal acts, establishes a carbon market in the EU, without specific targets per Member State. Emission reductions take place where they are most cost-efficient. Nevertheless, the ETS Directive includes measures to mitigate the distributional and social effects of the ETS, reinforced by the proposal. These include the solidarity auctioning provision, the Modernisation Fund, and targeted provisions in the Investment Booster to support economic modernisation and decarbonisation in lower-income Member States.
(g) How do the views/preferred courses of action of national, regional and local authorities differ across the EU?
The different views or preferred courses of action do not relate to the use of the ETS in itself, but to aspects of its design.
2.4 Based on the answer to the questions below, can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?
The objectives of the proposed action be better achieved at Union level by reason of the cost-efficiency of emissions reductions, coherence of EU action, preserved functioning of the internal market and strengthened EU position to foster global action on climate change. By extension, as the MSR is a tool for stability of the market established by the EU ETS Directive and the Maritime MRV Regulation supports the implementation of the ETS Directive for maritime transport, its objective also cannot be sufficiently achieved by unilateral action by the Member States.
(a) Are there clear benefits from EU level action?
Yes. The benefits from EU level actions relate to the economies of scale and improvement of the EU internal market explained below. In addition, EU action can also inspire and pave the way for the development of market-based measures at global level, e.g. as regards the maritime transport within International Maritime Organisation. EU action also allows the EU to have a stronger position internationally to apply a Carbon Border Adjustment Mechanism, based on the ETS to ensure compliance with the World Trade Organisation rules.
(b) Are there economies of scale? Can the objectives be met more efficiently at EU level (larger benefits per unit cost)? Will the functioning of the internal market be improved?
Yes. As a carbon market, the ETS incentivises emission reductions to be made by the most cost-efficient solutions first across the activities it covers, achieving greater efficiency by virtue of its scale. Implementing a similar measure nationally would result in smaller, fragmented carbon

markets, risking distortions of competition and likely lead to higher overall abatement costs. The same logic holds for the extension of carbon pricing to new sectors. Many of the policy elements of the proposal have an important internal market dimension, in particular the options related to the carbon leakage protection and the low-carbon funding mechanisms.

(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?

The benefits of a more homogenous approach are highlighted in point 2.4(b) above. Emission reductions take place where they are most cost-effective, thus reducing the overall cost of the climate transition for the EU. Emissions reductions also take place without distorting the internal market and preventing environmental dumping.

(d) Do the benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities (beyond the costs and benefits of acting at national, regional and local levels)?

The benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities, because reducing greenhouse gas emissions is fundamentally a transboundary issue that requires urgent effective action at the largest possible scale. The EU is well-placed to establish effective climate policy in the EU. Concretely, the benefits are the cost-efficiency of emissions reductions, coherent EU action, preserved functioning of the internal market and strengthened EU position to foster global action on climate change.

(e) Will there be improved legal clarity for those having to implement the legislation?

Yes.

3. Proportionality: How the EU should act

3.1 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the proportionality of the proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?

Yes. The explanatory memoranda (as well as the accompanying impact assessment covering all three proposals) show that the proposals comply with the proportionality principle because they do not go beyond what is necessary in order to achieve the objectives of implementing the EU's GHG emission reduction target for 2040 in a cost-effective manner while at the same time ensuring the proper functioning of the single market and the competitiveness of the ETS sectors, as well as not going beyond what is necessary to ensure timely and effective support to the sectors concerned and is designed in order not to trigger the application of the cross-sectoral correction factor, thereby avoiding negative redistribution effects on free allocation determined on the basis of the product benchmarks.

The European Parliament and the Council have endorsed an overall economy-wide and domestic reduction in GHG emissions of 90% compared with 1990 levels by 2040, with a possibility to use a limited quantity of high-quality international credits to make an 'adequate contribution' towards the 2040 target, starting in 2036. This proposal covers a large part of these GHG emissions and revises the ETS Directive in order to achieve this objective.

3.2 Based on the answers to the questions below and information available from any impact assessment, the explanatory memorandum or other sources, is the proposed action an appropriate way to achieve the intended objectives?

These proposals are the appropriate way forward to ensure that the sectors currently under the ETS, and those to which the system is extended, contribute to the reduction of emissions in line with the EU's GHG reduction target.
(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?
Yes, the objectives of these proposals cannot be sufficiently achieved by Member States acting alone as climate change is inherently transboundary and requires coordinated EU-level action. Adjusting the ETS to meet the EU's 2040 GHG reduction target requires coordinated action across multiple sectors, enabling cost-effective emission reductions and supporting upward convergence. Without EU action, there is a risk of fragmented national approaches, distortions to competition, higher transition costs, and slower decarbonisation. While Member States can implement complementary national measures, they cannot achieve the same level of consistency and market integrity as a common EU carbon market. Climate change impacts, including rising temperatures, floods, droughts and heatwaves, affect all Member States, although vulnerabilities vary by region, making the need for action EU-wide. The EU ETS also incorporates solidarity and financial support mechanisms to address distributional impacts and assist lower-income Member States, while differences among national authorities mainly concern the design of the ETS rather than its overall use.
(b) Is the form of Union action (choice of instrument) justified, as simple as possible, and coherent with the satisfactory achievement of, and ensuring compliance with the objectives pursued (e.g. choice between regulation, (framework) directive, recommendation, or alternative regulatory methods such as co-legislation, etc.)?
The objectives of the main proposal to amend the ETS Directive can be best pursued through a directive. This is the most appropriate legal instrument to make amendments to the existing ETS Directive. A directive requires Member States to achieve the objectives and incorporate the measures into their national substantive and procedural law systems. This approach gives the Member States more freedom when implementing an EU measure than does a regulation, in that Member States are left the choice of the most appropriate means of implementing the measures in the directive. This allows Member States to ensure that the amended rules are consistent with their existing substantive and procedural legal framework implementing the EU ETS, in particular regulating permits for installations as well as enforcement measures and penalties. A directive is also the appropriate instrument to amend the MSR Decision because the review of this legal instrument is closely related to the effects on market stability of the adjustments proposed to the EU ETS. Regarding the separate proposal to amend the ETS Directive as regards revised benchmark values for the heat and fuel benchmarks for the period from 2026 to 2030, its objectives can be best achieved pursuant through a Regulation. This is the most appropriate legal instrument to introduce amendments to the existing ETS Directive as regards rules concerning the update of the benchmark values since those do not require transposition by Member States. In addition, the update of the benchmark values is implemented directly by the Commission in accordance with the empowerment in Article 10a(2), third subparagraph of the ETS Directive. Lastly, the proposed amendment to Regulation (EU) 2015/757 and Regulation (EU) 2023/1805 has been separated from the ETS revision proposal purely for reasons of legal form, and should be handled together with the main proposal.
(c) Does the Union action leave as much scope for national decision as possible while achieving satisfactorily the objectives set? (e.g. is it possible to limit the European action to minimum standards or use a less stringent policy instrument og approach?)

Yes. By choosing a directive rather than a regulation, Member States retain flexibility in how they implement the required measures within their national legal and administrative systems. They are free to determine the most appropriate means of transposing the amendments, ensuring consistency with their existing frameworks for the EU ETS, including rules on permits, enforcement measures, and penalties. At the same time, a directive ensures that the common EU objectives are achieved in a harmonised manner. Regarding the separate proposal to amend the ETS Directive as regards revised benchmark values for the heat and fuel benchmarks for the period from 2026 to 2030, a regulation is the most appropriate legal instrument to introduce amendments to the existing ETS Directive as regards rules concerning the update of the benchmark values since those do not require transposition by Member States. In addition, the update of the benchmark values is implemented directly by the Commission in accordance with the empowerment in Article 10a(2), third subparagraph of the ETS Directive. Lastly, the proposed amendment to Regulation (EU) 2015/757 and Regulation (EU) 2023/1805 has been separated from the ETS revision proposal purely for reasons of legal form, and should be handled together with the main proposal.
(d) Does the initiative create financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved?
The impacts on regulated entities, public authorities, SMEs, and citizens are detailed in Annex 3 of the Impact Assessment covering the proposals. In summary, the proposal strengthens the environmental effectiveness of the system while maintaining proportionality, regulatory stability, and fairness across sectors, and safeguarding competitiveness. The proposed reforms maintain the existing compliance framework of the EU ETS, while introducing new obligations and compliance actions on specific groups of operators and administrations during the 2031-2040 period. The proposal introduces targeted simplifications to make the system more effective and reduce administrative burden. This includes simpler monitoring, reporting and verification in the aviation and maritime sectors; a boost in investment and innovation capacities; and making the Market Stability Reserve more responsive for the future. Regulated entities may face an increase in certain compliance costs yet also gain from a more gradual decarbonisation trajectory and, for stationary installations, a more gradual free allocation phase-out relative to the baseline, as well as greater policy certainty, increased investment and innovation support, and a more level playing field for low-carbon investment. Investment opportunities and capacities benefitting sectors covered by the EU ETS are significantly increased, including through the Industrial Decarbonisation Bank and Investment Booster, increased support for sustainable aviation and maritime fuels, and targeted reforms to ensure national auctioning revenues are used more effectively, transparently, and in full alignment with the EU's climate objectives. It is proposed to define clear priority areas for spending, reflecting the principle that ETS sectors paying the carbon price should be supported with the revenues the ETS raises and therefore focusing on high-impact sectors where ETS revenues can deliver the greatest emissions reductions and co-benefits. The proposal affects national budgets and administrations primarily because it provides for the transfer of a share of ETS auction revenues to the EU budget (own resource based on the EU ETS). SMEs regulated by the EU ETS can benefit from simplified rules for small emitters, such as standardised and simplified monitoring rules. Moreover, provisions on carbon leakage will be conceived to offer proportional treatment to SMEs: simplified forms of conditionality for free allocation or potential derogations for eligible SMEs. In addition, low emitters continue to benefit from technical guidance and simplified monitoring, reporting, and verification rules. Micro-enterprises remain largely outside the ETS coverage.

National competent authorities will expand ETS administrative systems to include new stationary operators (waste, CCU), to administer additional shipping companies and aircraft operators following extension to cover smaller vessels and business and private jets, update permitting and MRV procedures, and oversee verification of climate-neutral investment plans for conditional free allocation. EU institutions will establish a purchasing programme for carbon removal and modify the rules for prevention of carbon leakage (allocation of free allowances and indirect cost compensation). EU institutions will also update or develop harmonised MRV methodologies for certain sectors, update registry infrastructure, and adapt MSR parameters.
(e) While respecting the Union law, have special circumstances applying in individual Member States been taken into account?
Yes, the main ETS proposal contains several solidarity elements to support economic modernisation and decarbonisation in lower-income Member States, including through the solidarity auctioning share, Modernisation Fund and dedicated access to the Investment Booster. Targeted measures to address special circumstances in individual Member States also include, but are not limited to, targeted derogations, notably in the aviation and maritime sectors, such as those for outermost regions, islands and ice-class ships. See also point 2.3 (f).