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**A7-0171/2014**

12.3.2014

**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 525/2013 as regards the technical implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change  
(COM(2013)0769 – C7-0393/2013 – 2013/0377(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Vladimir Urutchev

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 525/2013 as regards the technical implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (COM(2013)0769 – C7-0393/2013 – 2013/0377(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0769),
  - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0393/2013),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 26 February 2014<sup>1</sup>,
  - after consulting the Committee of the Regions,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0171/2014),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> Not yet published in the Official Journal.

## **Amendment 1**

### **Proposal for a regulation Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) In the delegated acts to be adopted in accordance to this Regulation, the Commission should foresee, as for the unit management processes in the first commitment period of the Kyoto Protocol, a periodic net clearance exercise whereby transfers of AAUs are undertaken to reflect net transfers of Union allowances, including transfer of emission allowances with third countries participating in the EU ETS which are not part of the joint fulfilment agreement (e.g. Norway and Liechtenstein).***

## **Amendment 2**

### **Proposal for a regulation Recital 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***(5b) The relevant international rules governing the accounting for emissions and progress towards achievement of commitments should be adopted at the next climate conference in Lima in December 2014. The Commission should work therefore with the Member States and third countries to help ensure the formal adoption of the Kyoto Protocol accounting rules at the Lima climate conference. The outcome of those rules should be reflected in the implementation of the Union registry and the delegated acts envisaged in this Regulation.***

## *Justification*

*Amending / replacing AM 5 (recital 5b) by the Rapporteur.*

### **Amendment 3**

#### **Proposal for a regulation**

#### **Recital 5 c (new)**

*Text proposed by the Commission*

*Amendment*

*(5c) As a result of significant reductions in greenhouse gas emissions in the Union, which are due to climate policies as well as economic circumstances, there will be a significant surplus of AAUs, CERs (certified emissions reductions) and ERUs on the Union and Member States accounts for the second Kyoto Protocol commitment period. Pursuant to Decision 1/CMP.8, which requires Parties to revisit, by 2014, their reduction commitments for the second commitment period, the Union and the Member States should cancel a number of units to align with projected real emissions, and as a minimum with a cost-effective domestic emission trajectory towards the achievement of the Union's 2050 climate target.*

### **Amendment 4**

#### **Proposal for a regulation**

#### **Recital 6**

*Text proposed by the Commission*

*Amendment*

(6) In order to establish coherent rules to ensure the technical implementation of the Kyoto Protocol in the Union after 2012, to enable the effective operation of the joint fulfilment of the commitments of the Union, its Member States and Iceland, and

(6) In order to establish coherent rules to ensure the technical implementation of the Kyoto Protocol in the Union after 2012, to enable the effective operation of the joint fulfilment of the commitments of the Union, its Member States and Iceland, and

ensure its alignment with the operation of the EU ETS and the Effort Sharing Decision, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission. The Commission, when preparing and drawing up delegated acts, should ensure their consistency with internationally agreed accounting requirements, the terms of the joint fulfilment set out in Decision [...] and relevant Union legislation,

ensure its alignment with the operation of the EU ETS and the Effort Sharing Decision, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission. The Commission, when preparing and drawing up delegated acts, should ensure ***a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council, as well as*** their consistency with internationally agreed accounting requirements, the terms of the joint fulfilment set out ***in the Council Decision for ratification of the Doha Amendment to the Kyoto Protocol*** and relevant Union legislation,

## EXPLANATORY STATEMENT

### Introduction

During the Doha Climate Change Conference held in December 2012, the 192 Parties to the Kyoto Protocol to the United Nations Framework Convention on Climate Change adopted an amendment to the Protocol.

The Doha amendment establishes a second commitment period under the Kyoto Protocol (KP CP2), starting on 1 January 2013 and ending on 31 December 2020, with legally binding emission reduction commitments according to which the European Union, its Member States and Iceland are committed to limit their average annual greenhouse gas (GHG) emissions in the years 2013 to 2020 to 80% of their base year emissions (mostly 1990).

Alongside with it, the Doha Amendment made the following changes to the Kyoto Protocol: firstly, the inclusion of a new gas (nitrogen trifluoride); secondly, an ambition mechanism providing for a simplified procedure to allow a Party to adjust its commitment by increasing its ambition during a commitment period; and thirdly a provision which automatically adjusts a Party's target to prevent an increase in its emissions for the period 2013 to 2020 beyond its average emissions for the years 2008 to 2010.

The Doha Climate Change Conference also adopted Decisions 1/CMP.8 and 2/CMP.8 on the technical implementation of the commitments related to the accounting and management of Kyoto units during the second commitment period and the transition from the first to the second commitment period.

Thus the implementation of the Kyoto Protocol after 2012 requires a set of technical implementation rules to be drawn up for the European Union, its Member States and Iceland.

### Objective

The proposal for a Regulation of the European Parliament and of the Council provides the basis for adopting the needed technical rules to ensure the implementation of the Kyoto Protocol in the European Union after 2012, enable the effective operation of the joint fulfilment of the commitments of the European Union, its Member States and Iceland, and ensure its alignment with the operation of the EU ETS and the Effort Sharing Decision. These rules should address a number of issues, including:

- Unit management processes such as transactions of Kyoto units (issuance, transfer, acquisition, cancellation, retirement, carry-over, replacement or expiry date change) in and between the national registries of the European Union, Member States and Iceland;
- Accounting processes related to the transition from the first to the second commitment period, including the carry-over of surplus AAUs, CERs and ERUs from the first to the second commitment period;
- The establishment and maintenance of a previous period surplus reserve (PPSR) and a commitment period reserve (CPR) for each member of the joint fulfilment agreement;
- Accounting for the 'share of proceeds' following the issuance of ERUs and the first

international transfer of AAUs in the second commitment period.

## **Legal aspects**

A delegated act pursuant to Article 290 TFEU supplements the essential rules by specifying its substance and regulating further details. It is different from an implementing act which provides for uniform conditions in the implementation of Union legislation by the Member States.

The accounting requirements of the Kyoto Protocol to be implemented after 2012 are to a large extent based on internationally agreed rules. These rules are not implemented by the Member States alone and they apply equally to the European Union itself, placing an obligation on EU institutions.

The delegated acts envisaged in this regulation would not harmonise the implementation of any existing essential rules, as provided for by Article 290 TFEU, but rather set out further specific technical details for the implementation of the Kyoto Protocol after 2012.

In order to establish an effective registries system that implements the new accounting and unit management requirements in the second commitment period of the Kyoto Protocol, it is therefore necessary to empower the Commission to adopt the needed delegated acts.

## **Position of the rapporteur**

The rapporteur welcomes the Commission proposal. He believes that it provides the necessary legal basis for adopting the technical rules to ensure the effective implementation of the Kyoto Protocol in the European Union after 2012.

## **The rapporteur would like to highlight the following aspects that should be reflected in the Commission proposal:**

### *Addressing uncertainties and adjustments*

The emission levels/allocated amounts to each Member State (and Iceland) are based on the Effort-Sharing Decision (ESD) (Decision 406/2009) and cover all the sources and sinks on the territory of that Member State as covered by the Kyoto Protocol, with the exception of sources included in the EU ETS.

The EU emission level/assigned amount covers the emissions in the Member States and Iceland from sources included in the EU ETS that are also within the scope of the Kyoto Protocol.

As Member State assigned amounts are fixed in the Proposal for Council Decision on the ratification of Doha agreement to the Kyoto Protocol, any uncertainties or adjustments in the definition of the joint assigned amount will only affect the EU assigned amount. The use of any surplus or addressing any deficit in the EU assigned amount that may arise for instance as a result of the UN Expert Review process would need to be addressed through delegated legislation.

### *International rules still not formally adopted*

The relevant international rules governing the accounting for emissions and progress towards achievement of commitments in Kyoto Protocol second period were agreed in substance,

albeit not formally adopted, in Warsaw in November 2013. Pending the resolution of two contentious provisions, their adoption should take place at the next climate conference in Lima in December 2014. As the substantively agreed part of these international rules was declared to be closed by all Parties with a commitment in the Kyoto Protocol second period, the lack of a formal adoption of these rules should therefore not prevent the European Union, its Member States or Iceland from proceeding with the implementation of the rules into the domestic law. Nonetheless, the Commission shall work with the Member States and third countries to help ensure the formal adoption of the Kyoto Protocol accounting rules at the Lima climate conference. Any substantive change in the rules should be reflected in the delegated acts envisaged in this regulation.

#### *Net clearance exercise*

As for the unit management processes in the first commitment period of the Kyoto Protocol, a periodic net clearance exercise should be foreseen for the second commitment period whereby transfers of AAUs are undertaken to reflect net transfers of EU allowances, including transfer of emission allowances with third countries participating in the EU ETS which are not part of the joint fulfilment agreement (e.g. Norway and Liechtenstein). This should be addressed in the delegated acts to be adopted in accordance to this regulation.

#### **Conclusions**

The rapporteur considers that the scope of the proposed amendment to the Regulation (EU) No 525/2013 on the Mechanism for Monitoring and Reporting of the greenhouse gas emissions in EU reflects to full extend the necessity to draw up and adopt the specific and coherent rules to ensure the technical implementation of the Kyoto Protocol in the Union after 2012, to enable the effective operation of the joint fulfilment of the commitments of the Union, its Member States and Iceland, and ensure its alignment with the operation of the EU ETS and the Effort Sharing Decision.

The rapporteur perceives the formal entry into force of the Doha Amendment among the priority objective for the European Union since the Kyoto Protocol has a crucial contribution in global efforts to tackle climate change.

Therefore, given the above mentioned considerations, the Rapporteur suggests that the Committee responsible and the European Parliament adopt the Commission proposal without unnecessary delays and not later than the end of the current parliamentary term.

## PROCEDURE

<b>Title</b>	Amendment to Regulation (EU) No 525/2013 as regards the technical implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change	
<b>References</b>	COM(2013)0769 – C7-0393/2013 – 2013/0377(COD)	
<b>Date submitted to Parliament</b>	6.11.2013	
<b>Committee responsible</b> Date announced in plenary	ENVI 18.11.2013	
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	DEVE 18.11.2013	ITRE 18.11.2013
<b>Not delivering opinions</b> Date of decision	DEVE 17.12.2013	ITRE 27.11.2013
<b>Rapporteur(s)</b> Date appointed	Vladimir Urutchev 18.12.2013	
<b>Discussed in committee</b>	12.2.2014	
<b>Date adopted</b>	10.3.2014	
<b>Result of final vote</b>	+	42
	-	5
	0	10
<b>Members present for the final vote</b>	Elena Oana Antonescu, Pilar Ayuso, Sergio Berlato, Franco Bonanini, Biljana Borzan, Martin Callanan, Chris Davies, Bas Eickhout, Edite Estrela, Jill Evans, Elisabetta Gardini, Gerben-Jan Gerbrandy, Françoise Grossetête, Cristina Gutiérrez-Cortines, Satu Hassi, Jolanta Emilia Hibner, Martin Kastler, Christa Klaß, Eija-Riitta Korhola, Claus Larsen-Jensen, Jo Leinen, Peter Liese, Zofija Mazej Kukovič, Linda McAvan, Andrés Perelló Rodríguez, Mario Pirillo, Anna Rosbach, Oreste Rossi, Carl Schlyter, Horst Schnellhardt, Richard Seeber, Dubravka Šuica, Claudiu Ciprian Tănăsescu, Thomas Ulmer, Glenis Willmott, Sabine Wils, Marina Yannakoudakis	
<b>Substitute(s) present for the final vote</b>	Margrete Auken, Inés Ayala Sender, Nikos Chrysogelos, Birgit Collin-Langen, Julie Girling, Jutta Haug, Romana Jordan, Filip Kaczmarek, Judith A. Merkies, Justas Vincas Paleckis, Marit Paulsen, Vittorio Prodi, Rebecca Taylor, Marita Ulvskog, Vladimir Urutchev	
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Fiona Hall, Kent Johansson, Bernd Lange, Emma McClarkin, Sabine Verheyen	
<b>Date tabled</b>	13.3.2014	