Model EU Simulation 2026 – ENVI Committee

Revision of the EU Emissions Trading System (ETS) – Post-2030 Framework

Commission Proposal COM(2026)616 – Modified Proposal for Debate

How to use this version

This version contains the operative text of the Commission's proposal (from the enacting formula, "HAVE ADOPTED THIS DIRECTIVE," through the last article), reproduced word for word. Nothing has been reworded. The recitals, explanatory memorandum, and financial statement are not repeated here; use the full Commission document for those.

Text in black is the core text that delegations should negotiate. Text in gray under a shaded banner reading "Only to be debated if time is remaining." has been set aside to keep the debate manageable. It remains part of the proposal and is not deleted. If the core text is settled with time to spare, the committee may take up these sections in the order they appear.

Cross-references: the core text still refers in places to provisions that are set aside, for example Article 10(1) (which mentions Articles 3gaa, 3gab and 19) and the Article 10a decarbonisation conditions. Read these references as pointing to the set-aside text unless and until the committee takes it up.

The unlabeled (amendable) provisions, expressed as amendments to Directive 2003/87/EC, are:

- Article 3c
- Article 9, and new Articles 9b and 9c
- Article 10
- Article 10a (paragraphs 1 to 3e only; 3f, 5a, 5b, 6, 7, 8 and 8a are back-up)
- Article 10b, and new Articles 10cb to 10ce
- Article 10d, and new Article 10da
- Article 10f
- New Articles 12a and 12b
- Article 28a
- Market Stability Reserve changes (Article 2 of the proposal, paragraphs 4a, 5 and 6 of Decision (EU) 2015/1814)

Operative text

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2003/87/EC

Directive 2003/87/EC is amended as follows:

Only to be debated if time is remaining.

(1) in Article 2, the first subparagraph is replaced by the following:

‘1. This Directive shall apply to the activities listed in Annexes I and III, and to the greenhouse gases listed in Annex II. Where an installation that is included within the scope of the EU ETS due to the operation of combustion units with a total rated thermal input exceeding 20 MW changes its production processes to reduce its greenhouse gas emissions and no longer meets that threshold, the Member State in which that installation is situated shall provide the operator with the options of remaining within the scope of the EU ETS until the end of the current and the two following five-year periods referred to in Article 11(1), second subparagraph, following the change to its production processes. The operator of that installation may decide that the installation is to remain within the scope of the EU ETS until the end of the current five-year period only, the end of the next five-year period only following the change to its production processes, or the end of the following two five-year periods following the change to its production processes. The Member State concerned shall notify the Commission of changes compared to the list submitted to the Commission pursuant to Article 11(1).’;

(2) Article 3 is amended as follows:

(a) point (e) is replaced by the following:

‘(e) ‘installation’ means either of the following:

(i) a stationary technical unit where one or more activities listed in Annex I are carried out and any other directly associated activities which have a technical connection with the activities carried out and which could have an effect on emissions and pollution;

(ii) a CO2 transport infrastructure as defined in Article 3(29) of Regulation (EU) 2024/1735 of the European Parliament and of the Council* that carries out the activity of transport of carbon dioxide listed in Annex I;

* Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe’s net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 (OJ L, 2024/1735, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1735/oj).’

(b) point (h) is replaced by the following:

‘(h) ‘new entrant’ means any installation carrying out one or more of the activities listed in Annex I or an activity included in the EU ETS in accordance with Article 24, which has obtained a greenhouse gas emissions permit for the first time within the period starting from three months before the date for submission of the list under Article 11(1), and ending on 31 December of the last year in the corresponding five-year period for free allocation referred to in Article 11(1);’;

(c) point (o) is replaced by the following:

‘(o) ‘aircraft operator’ means the person who operates an aircraft at the time it performs an aviation activity listed in Annex I or, where that person cannot be identified, the entity charged for air navigation service charges pursuant to Article 32 of Regulation (EU) 2024/2803 of the European Parliament and the Council*, or ultimately the owner of the aircraft;

* Regulation (EU) 2024/2803 of the European Parliament and of the Council of 23 October 2024 on the implementation of the Single European Sky (OJ L, 2024/2803, 11.11.2024, ELI: http://data.europa.eu/eli/reg/2024/2803/oj).’;

(d) point (p) is deleted;

(e) point (z) is replaced by the following:

‘(z) ‘port of call’ means either of the following:

(i) for ships transporting for commercial purposes cargo or passengers, the port where a ship stops to load or unload cargo or to embark or disembark passengers; stops for the sole purposes of refuelling, obtaining supplies, relieving the crew of a ship, going into dry-dock or making repairs to the ship, its equipment, or both, stops in port because the ship is in need of assistance or in distress, ship-to-ship transfers carried out outside ports, stops for the sole purpose of taking shelter from adverse weather or rendered necessary by search and rescue activities, and stops of containerships in a neighbouring container transhipment port listed in the implementing act adopted pursuant to Article 3ga(2) are excluded;

(ii) for ships performing or supporting offshore operations in connection with an offshore worksite, the port where a ship stops to load or unload cargo or to embark or disembark passengers, or the offshore worksite where a ship performs or supports offshore operations; stops for the sole purposes of refuelling, obtaining supplies, relieving the crew of a ship, going into dry-dock or making repairs to the ship, its equipment, or both, stops in port because the ship is in need of assistance or in distress, ship-to-ship transfers carried out outside ports, stops for the sole purpose of taking shelter from adverse weather or rendered necessary by search and rescue activities, and stops of containerships in a neighbouring container transhipment port listed in the implementing act adopted pursuant to Article 3ga(2) are excluded;’

(f) in point (ag), the words ‘for the purposes of Chapter IVa of this Directive’ are deleted;

(g) the following points are added:

‘(aj) ‘hazardous waste’ means hazardous waste as defined in Article 3, point (2) of Directive 2008/98/EC of the European Parliament and of the Council (*)

(ak) ‘municipal waste’ means municipal waste as defined in Article 3, point (2b) of Directive 2008/98/EC;

(al) ‘synthetic fuels’ means renewable fuels of non-biological origin as defined in Article 2, point (36) of Directive (EU) 2018/2001 and low-carbon fuels as defined in Article 2, point (13), of Directive (EU) 2024/1788 of the European Parliament and of the Council*;

(am) ‘offshore operations’ means activities in connection with the exploration, appraisal or exploitation of natural resources of the seabed and subsoil, or activities in connection with offshore installations or offshore infrastructure, but excluding the activities of maritime transport of oil and gas;

(an) ‘offshore worksite’ means the geographical area covered by an authorisation delivered by the competent authority for conducting offshore operations;

(ao) ‘business flight’ means a flight that is performed with a business aircraft included on the list adopted by the Commission pursuant to Article 3c(6).’.

* Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, ELI: http://data.europa.eu/eli/dir/2008/98/oj)

* Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 on common rules for the internal markets for renewable gas, natural gas and hydrogen, amending Directive (EU) 2023/1791 and repealing Directive 2009/73/EC (recast) (OJ L, 2024/1788, 15.7.2024, ELI: http://data.europa.eu/eli/dir/2024/1788/oj).’;

(3) Article 3c is amended as follows:

(a) paragraph 6 is replaced by the following:

‘6. For the period from 1 January 2024 until 31 December 2030, a maximum of 20 million of the total quantity of allowances referred to in paragraph 5 shall be reserved in respect of aircraft operators, on a transparent, equal-treatment and non-discriminatory basis, for the use of sustainable aviation fuels, and other aviation fuels that are not derived from fossil fuels, referred to in Article 4(1), second subparagraph, of Regulation (EU) 2023/2405 of the European Parliament and the Council* and for the use of electricity, for subsonic flights for which allowances have to be surrendered in accordance with Article 12(3) of this Directive and for which the fulfilment of that obligation is not considered to be satisfied pursuant to Article 28a(1) of this Directive. For business flights, the reserved amount shall be available only for the use of electricity. Where eligible aviation fuel cannot be physically attributed to a specific flight, the allowances reserved under this subparagraph shall be available for eligible aviation fuels uplifted in the EEA proportionate to the emissions from flights, except business flights, of the aircraft operator for which allowances have to be surrendered in accordance with Article 12(3) of this Directive and the fulfilment of that obligation is not considered to be satisfied pursuant to Article 28a(1) of this Directive. The same principle shall apply to defining the volume of fuels to which zero emission factor applies. The allowances reserved under the first subparagraph of this

paragraph shall be allocated by the Member States to cover part of or all of the price differential between the use of fossil kerosene and the use of the relevant eligible aviation fuels, taking into account incentives from the price of carbon and from harmonised minimum levels of taxation on fossil fuels. When calculating that price differential, the Commission shall take into account the technical report published by the European Union Aviation Safety Agency pursuant to Article 13(1) of Regulation (EU) 2023/2405. Member States shall ensure the visibility of funding under this paragraph in a manner corresponding to the requirements in Article 30m(1), points (a) and (b), of this Directive. The allowances allocated under this paragraph shall cover:

(a) 50 % of the remaining price differential between the use of fossil kerosene and advanced biofuels as defined in Article 2, second paragraph, point (34), of Directive (EU) 2018/2001 of the European Parliament and of the Council **, for which the emission factor is zero under Annex IV to this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

(b) 60 % of the remaining price differential between the use of fossil kerosene and hydrogen from renewable energy sources, and drop-in renewable fuels of non-biological origin compliant with Article 25 of Directive (EU) 2018/2001, used in aviation, for which the emission factor is zero under Annex IV to this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

(c) 100 % of the remaining price differential between the use of fossil kerosene and any eligible aviation fuel that is not derived from fossil fuels covered by the first subparagraph of this paragraph, at airports situated on islands smaller than 10 000 km2 and with no road or rail link with the mainland and at airports located in an outermost region, where the physical delivery of the eligible aviation fuel, outside of a mass balance system, took place;

(d) until 31 December 2029, in cases other than those referred to in points (a), (b) and (c), 30 % of the remaining price differential between the use of fossil kerosene and any eligible aviation fuel that is not derived from fossil fuels covered by the first subparagraph of this paragraph.

(e) from 1 January 2027, the same number of allowances per megajoule (MJ) of electricity consumed as aircraft operators are entitled to receive pursuant to point (b) for the use of drop-in renewable fuels of non- biological origin, in case of electric or hybrid aircraft performing flights for which allowances have to be surrendered in accordance with Article 12(3). Fuels shall be eligible for support referred to in this paragraph only if they are produced in the EEA, in a third country that has an emissions trading system linked with the EU ETS, or in a third country to which the Union provides support pursuant to Article 25b. Fuels referred to in the third subparagraph, points (a), (b) and (d), shall be eligible for a 10 percentage point increase in coverage if they are produced using feedstock that is sourced in the Union, in a third country that has an emissions trading system linked with the EU ETS, or in a third country to which the Union provides support pursuant to Article

25b. The allocation of allowances under this paragraph may take into account possible support from other schemes at national, Union, or international level. On a yearly basis, aircraft operators may apply for an allocation of allowances based on the quantity of each eligible aviation fuel referred to in this paragraph used on subsonic flights, with the exception of business flights, for which allowances have to be surrendered in accordance with Article 12(3) between 1 January 2024 and 31 December 2040, excluding flights for which that requirement is considered to be satisfied pursuant to Article 28a(1). On a yearly basis, aircraft operators may apply for an allocation of allowances in case of electric or hybrid aircraft using electricity or hydrogen for performing any flight for which allowances have to be surrendered in accordance with Article 12(3) until 31 December 2035. If an aircraft operator demonstrates to the satisfaction of the Commission a binding long-term fuel supply contract for the fuels referred to in the third subparagraph, points (a), (b) and (e), which binds both the fuel supplier and the aircraft operator, and is valid for at least three years, the allowances covering the price difference for each year of the duration of the contract, for a maximum of five years, shall be reserved for that aircraft operator. The yearly allocation of the allowances for the use of the eligible fuels delivered under those contracts shall be done the same way as set out in the second to fourth subparagraphs. Allowances reserved under this point cannot exceed 10 million. If, for a given year, the demand for allowances pursuant to this paragraph is higher than the availability of allowances, the quantity of allowances shall be reduced in a uniform manner for all aircraft operators concerned by the allocation for that year. Significant reductions in climate impacts from contrails in the order of millions of tonnes of CO2e may be incentivised through the yearly use of no more than 420 000 allowances. From the amount reserved pursuant to the first subparagraph, a total of up to 3 million allowances, available until 31 December 2033, shall be dedicated to the cost-effective reduction of climate impacts from contrails. Member States shall allocate allowances equal to 0,1 percent of the verified emissions of an aircraft operator, upon its request, which has embedded contrails forecasting models in its flight planning tools. In order to be eligible for this allocation aircraft operators shall make available the contrail forecasts to their operations control centre or equivalent, which shall be instructed to assess their operational viability and, if possible, to incorporate them when filing the corresponding flights. An additional amount equal to 0,02 percent of the verified emissions shall be allocated to aircraft operators, referred to in the first sentence of this subparagraph, for flights for which the aircraft operator uses flight trajectories and fuel flow as in-flight measured data for the given year to report non-CO_2 aviation effects pursuant to Article 14(5). The contrail forecasting models of aircraft operators referred to in the first sentence of this subparagraph shall use, as a basis, the same common reference numerical weather prediction model and weather data as the one used in the monitoring, reporting and verification tools provided by the Commission referred to in Article 14(5). The Commission shall publish in the Official Journal of the European Union details of the average cost difference between fossil kerosene, taking into account incentives from the

price of carbon and from harmonised minimum levels of taxation on fossil fuels, and the relevant eligible aviation fuels, on a yearly basis for the previous year. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by establishing the detailed rules for the yearly calculation of the cost difference referred to in the sixth subparagraph of this paragraph, for the allocation of allowances for the use of the fuels identified in the first subparagraph of this paragraph as reported under the implementing act adopted pursuant to Article 14(1), and establishing the arrangements for taking into account incentives from the price of carbon and from harmonised minimum levels of taxation on fossil fuels. Those delegated acts may also lay down further rules and procedures for validation of contrail forecasting models and their inclusion in flight planning tools. The Commission shall adopt implementing acts listing business aircraft(s), the flights performed by which aircraft are considered business flights. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2). By 1 July 2032, the Commission shall carry out an assessment regarding the application of this paragraph and submit the results in a report to the European Parliament and to the Council. The report may, where appropriate, be accompanied by a legislative proposal to revise the amount reserved under this paragraph until 31 December 2040, taking into account changes to the geographic extent of flights subject to the surrender obligation laid down in Article 12(3), to continue incentivise the use of the fuels identified in the first subparagraph of this paragraph, in particular the use of renewable fuels of non- biological origin compliant with Article 25 of Directive (EU) 2018/2001, used in aviation, for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive. From 1 January 2028, the Commission shall evaluate the application of this paragraph in the annual report it is required to submit pursuant to Article 10(5).

* Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation) (OJ L, 2023/2405, 31.10.2023, ELI: http://data.europa.eu/eli/reg/2023/2405/oj).

** Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82, ELI: http://data.europa.eu/eli/dir/2018/2001/oj).’;

(b) paragraph 8 is replaced by the following:

‘8. By way of derogation from Article 12(3), Article 14(3) and Article 16, Member States shall consider the requirements set out in those provisions to be satisfied and shall take no action against aircraft operators in respect of emissions released until 31 December 2035 from flights between an aerodrome located in an outermost region of a Member State and an aerodrome located in the same Member State, including another aerodrome located in the same outermost region or in another outermost region of the same Member State.’;

Only to be debated if time is remaining.

(4) Article 3ga is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. In respect of ships transporting for commercial purposes cargo or passengers, the allocation of allowances and the application of surrender requirements in respect of maritime transport activities shall apply in respect of fifty percent (50 %) of the emissions from ships performing voyages departing from a port of call under the jurisdiction of a Member State and arriving at a port of call outside the jurisdiction of a Member State, fifty percent (50 %) of the emissions from ships performing voyages departing from a port of call outside the jurisdiction of a Member State and arriving at a port of call under the jurisdiction of a Member State, one hundred percent (100 %) of emissions from ships performing voyages departing from a port of call under the jurisdiction of a Member State and arriving at a port of call under the jurisdiction of a Member State, and one hundred percent (100 %) of emissions from ships within a port of call under the jurisdiction of a Member State. In respect of ships performing or supporting offshore operations in connection with an offshore worksite, the allocation of allowances and the application of surrender requirements shall apply in respect of the following:

(i) half of the emissions from that ship released during voyages between a port of call under the jurisdiction of a Member State and a port of call outside the jurisdiction of a Member State for the purpose of performing or supporting offshore operations in connection with an offshore worksite situated in the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State;

(ii) all emissions from that ship released during voyages for the purpose of performing or supporting offshore operations in connection with an offshore worksite situated in the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State that depart from a port of call under the jurisdiction of a Member State and arrive at a port of call under the jurisdiction of a Member State;

(iii) all emissions from that ship within a port of call under the jurisdiction of a Member State, if these emissions are closely related to performing or supporting offshore operations in connection with an offshore worksite situated in the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State. However, the allocation of allowances and the application of surrender requirements shall not apply in respect of emissions released during voyages for the purpose of performing or supporting offshore operations in

connection with an offshore worksite situated outside the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State, and in respect of emissions released within a port of call under the jurisdiction of a Member State, if these emissions are closely related to performing or supporting offshore operations in connection with an offshore worksite situated outside the territorial sea, the EEZ, the continental shelf or the continental shelf sea of a Member State.';

(b) paragraph 2 is replaced by the following:

'2. The Commission shall by means of implementing acts establish a list of neighbouring container transhipment ports and update that list, where necessary, by 31 December every year. Those implementing acts shall list a port as a neighbouring container transhipment port either where that port is located outside the Union but less than 150 nautical miles from a port under the jurisdiction of a Member State, where the draught and berth length of that port exceed 11 meters and 250 meters, respectively, and where there are available ship-to-shore cranes suitable for container transhipment operations, or where the share of transhipment of containers, measured in twenty-foot equivalent units, exceeds 50 % of the total container traffic of that port during the most recent twelve- month period for which relevant data are available and where that port is located outside the Union but less than 300 nautical miles from a port under the jurisdiction of a Member State. For the purposes of this paragraph, containers shall be considered to be transhipped when they are unloaded from a ship to the port for the sole purpose of being loaded onto another ship. The list established by the Commission pursuant to the first subparagraph shall not include ports located in a third country for which that third country effectively applies measures equivalent to this Directive. This includes ports in third countries with whom an ETS linking agreement is in place. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

(c) paragraph 3 is amended as follows:

(i) the date "31 December 2030" is replaced by "31 December 2038".

(ii) the penultimate sentence is replaced by the following:

'The revenue generated from the auctioning of that share of allowances shall be used for the priority purposes referred to in the first subparagraph of Article 10(3), points (a) and (d), and for purpose (g) of the purposes referred to in the second subparagraph of Article 10(3).'

(d) the following new paragraph is added:

'4. In the period until 2040, the Commission shall use up to a maximum of 0.5 million allowances from the Union-wide quantity of allowances referred to in Article 9 to cover the financing of the implementation of the system in relation to maritime

transport activities. These allowances shall be auctioned in accordance with Article 10(4) of this Directive, with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509.';

(5) the following Article 3gaa is inserted:

'Article 3gaa

Reservation and allocation of allowances for the use of sustainable maritime fuels and zero-emission propulsion technologies

1. Notwithstanding Article 10(1), for the period from 1 January [2028/first year after the entry into force of this Directive] to 31 December 2040, a maximum of 110 million of the Union-wide quantity of allowances referred to in Article 9 shall be reserved for the use of sustainable maritime fuels or the deployment and operation of zero-emission propulsion technologies, including electric and wind-assisted propulsion systems, provided that those fuels and technologies are used in accordance with the rules laid down in this Article.

2. For the purposes of this Article, 'sustainable maritime fuels' means:

(a) biogas and advanced biofuels as defined in Article 2, second paragraph, points (28) and (34), respectively, of Directive (EU) 2018/2001, for which the emission factor is zero under Annex IV of this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

(b) renewable fuels of non-biological origin compliant with Article 25 of Directive (EU) 2018/2001, for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive;

(c) low-carbon hydrogen and low-carbon fuels as defined respectively in Article 2, point (11) and (13) of Directive (EU) 2024/1788 for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive..

3. The allowances referred to in paragraph 1 of this Article shall be reserved, on a transparent, equal-treatment and non-discriminatory basis, in respect of shipping companies for the use of sustainable maritime fuels and zero-emission propulsion technologies on voyages for which allowances have to be surrendered in accordance with Article 12(3). Allowances may support the use of sustainable maritime fuels or zero-emission propulsion technologies by vessels below 5 000 gross tonnage but not below 400 gross tonnage on voyages from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State.

4. Member States shall allocate the allowances reserved under paragraph 1 of this Article to cover all or part of:

(a) the remaining price differential between the use of sustainable maritime fuels and the use of maritime fossil fuels;

(b) the cost incurred in deploying and operating zero-emission propulsion technologies compared to conventional propulsion systems, in proportion to the amount of emission reductions achieved through the use of these zero-emission propulsion technologies.

5. The Commission shall determine the price differential between the use of maritime fossil fuels and sustainable maritime fuels on the basis of objective and verifiable information, including, where available, actual transaction prices. Where no representative market price exists for sustainable maritime fuels, the Commission shall establish reference prices on the basis of objective and verifiable elements. For maritime fossil fuels, the Commission shall estimate a weighted average price reflecting the actual mix of maritime fossil fuels reported under Regulation (EU) 2015/757. The cost incurred in deploying and operating zero-emission propulsion technologies compared to conventional propulsion systems shall be calculated by shipping companies on the basis of average emissions reduction costs to be determined by the Commission, taking into account objective and verifiable information.

6. When allocating allowances in accordance with this Article, Member States shall ensure that the following origin requirements are fulfilled:

(a) the batches of sustainable maritime fuels shall be produced in the Union, or in a third country that has an emissions trading system linked with the emissions trading system established in accordance with this Directive, or in a third country to which the Union provides support pursuant to Article 25b for the effective application of greenhouse gas emission pricing with an absolute emissions cap;

(b) the zero-emission propulsion technologies shall be manufactured in the Union, or in a third country that has an emissions trading system linked with the emissions trading system established in accordance with this Directive, or in a third country to which the Union provides support pursuant to Article 25b for the effective application of greenhouse gas emission pricing with an absolute emissions cap.

7. By way of derogation from paragraph 6, Member States shall not apply origin requirements in respect of sustainable maritime fuels used on eligible voyages between a port of call under the jurisdiction of a Member State and a port outside the jurisdiction of a Member State that is identified in the implementing act adopted pursuant to paragraph 8, first subparagraph.

8. The Commission is empowered to adopt implementing acts listing ports outside the jurisdiction of a Member State that align with the guiding principles for support to port

projects in third countries identified in the EU Ports strategy* and that participate in green shipping corridors with other ports under the jurisdiction of a Member State. The Commission is also empowered to adopt implementing acts to update that list, as appropriate. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

9. The allowances allocated in relation to the use of sustainable maritime fuels and zero-emission propulsion technologies shall cover:

(a) 55 % of the remaining price differential between the use of maritime fossil fuels, on the one hand, and biogas and advanced biofuels as defined in Article 2 points (28) and (34), of Directive (EU) 2018/2001, for which the emission factor is zero under Annex IV to this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

(b) 90 % of the remaining price differential between the use of maritime fossil fuels and renewable fuels of non-biological origin compliant with Article 25 of Directive (EU) 2018/2001 for which the emission factor is zero under Annex IV to this Directive or under the implementing act adopted pursuant to Article 14 of this Directive;

(c) 80 % of the remaining price differential between the use of maritime fossil fuels and low-carbon hydrogen and low-carbon fuels as defined respectively in Article 2, point (11) and (13) of Directive (EU) 2024/1788 for which the emission factor is zero under Annex IV or under the implementing act adopted pursuant to Article 14 of this Directive.;

(d) 90 % of the additional cost incurred in deploying and operating zero-emission propulsion technologies compared to conventional propulsion systems. Where sustainable maritime fuels or zero-emission propulsion technologies are used on a voyage between a port under the jurisdiction of a Member State and a port under the jurisdiction of a Member State located on an island, for which allowances have to be surrendered in accordance with Article 12(3), the percentages laid down the first subparagraph, points (a) to (d), shall be increased by 5 percentage points. Where allowances are to be allocated in relation to sustainable maritime fuels produced using feedstock that is sourced in the Union, or in a third country that has an emissions trading system linked with the emissions trading system established in accordance with this Directive, or in a third country to which the Union provides support pursuant to Article 25b for the effective application of greenhouse gas emission pricing with an absolute emissions cap, the percentages laid down in the first subparagraph, points (a) to (c), shall be increased by 10 percentage points. Where allowances are to be allocated in relation to the deployment and operation of zero- emission propulsion technologies that have been fitted on ships in Union shipyards, the percentage laid down in the first subparagraph, point (d), shall be

increased by 5 percentage points. Where sustainable maritime fuels are used or zero-emission propulsion technologies are deployed or operated on a voyage between a port of call under the jurisdiction of a Member State and a port of call outside the jurisdiction of a Member State, the amount of allowances to be allocated in accordance with this Article shall be multiplied by 50 %, in accordance with the geographical scope referred to in Article 3ga of this Directive.

10. On a yearly basis, shipping companies may apply for an allocation of allowances based on the quantity of sustainable maritime fuels used and the emission reductions achieved through zero-emission propulsion technologies during the preceding calendar year.

11. If, for a given year, the demand for allowances exceeds the quantity of allowances available, the quantity of allowances shall be reduced in a uniform manner for all shipping companies concerned by the allocation for that year.

12. The allocation of allowances under this Article may take into account possible support from other schemes at national, Union, or international level.

13. The Commission shall publish in the Official Journal of the European Union the following information:

(a) the average price differential between maritime fossil fuels and sustainable maritime fuels on a yearly basis for the previous year;

(b) average emissions reduction costs resulting from the deployment and operation of zero-emission propulsion technologies every three years for the previous three years.

14. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by establishing detailed rules concerning:

(a) the calculation of price differentials, including the establishment of reference prices where representative market prices are not available;

(b) the determination of objective criteria applicable to eligible zero-emission propulsion technologies when contributing to greenhouse gas emission reductions;

(c) the determination of the emissions reductions coming from the deployment and operation of zero-emission propulsion technologies;

(d) application, allocation, monitoring, reporting and verification procedures as regards the allocation of allowances in accordance with this Article;

(e) safeguards to prevent overcompensation, including in relation to national, Union, or international schemes;

(f) establishing safeguards and procedures to ensure a fair and proportionate distribution of allowances among shipping companies, while taking into account

the need to preserve effective competition and access for small and medium sized shipping companies.

15. Member States shall ensure the visibility of funding under this Article in a manner corresponding to the requirements set out in Article 30m(1), points (a) and (b).

16. From 1 January 2032, the Commission shall evaluate the application of this Article in the annual report it is required to submit pursuant to Article 10(5).

* Communication from the Commission from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'EU Ports Strategy' COM(2026) 112 final, Annex 1, 'B)Guiding principles for support to port projects in third countries.';

(6) after Article 3gaa, the following Article 3gab is inserted:

'Article 3gab

Reservation and allocation of allowances for the decarbonisation of the maritime sector in certain least developed countries and small island developing States An amount of 0.9 million of the Union-wide quantity of allowances referred to in Article 9 shall be reserved for the decarbonisation of the maritime sector in least developed countries and small island developing States as defined by the United Nations, excluding those States whose GDP per capita equals or exceeds the Union average. Such amount shall be reserved on an annual basis until 2035. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive by laying down rules on the use of the reserved allowances referred to in the first subparagraph of this paragraph and the procedure to make available those allowances.';

(7) Article 3gg is amended as follows:

(a) in paragraph 1, point (c) is replaced by the following:

'(c) any issue related to the coherence between the EU ETS and that measure, including double payment.'

(b) in paragraph 1, the second subparagraph is replaced by the following:

'Where appropriate, the Commission may accompany the report referred to in the second subparagraph of this paragraph with a legislative proposal to amend this Directive in a manner that is consistent with the Union 2030 climate targets and the climate-neutrality objective set out in Regulation (EU) 2021/1119, and with the aim of preserving the environmental integrity and effectiveness of Union climate action, in order to ensure coherence between the implementation of the global market-based measure and the EU ETS, while avoiding double payment and any significant double burden.';

(c) paragraph 4 is replaced by the following: 'No later than 30 September 2035, the Commission shall assess the implementation of Article 3ga(3), second

subparagraph, including its contribution to the decarbonisation of maritime transport and the administrative costs incurred by the Member States concerned, and the appropriateness of extending its application beyond 31 December 2038 and, if appropriate, submit a legislative proposal to that effect'.

(d) in paragraph 5, the first subparagraph is replaced by the following: 'No later than 31 December 2031 the Commission shall present a report to the European Parliament and to the Council in which it shall examine the feasibility and economic, environmental and social impacts of the inclusion in this Directive of emissions from ships, below 5 000 gross tonnage but not below 400 gross tonnage, which are referred to in Article 2(1d) points (e) and (f) of Regulation (EU) 2015/757';

(e) the following paragraph 6 and 7 are added:

'6. By 1 January 2032, the Commission shall carry out an evaluation of the application of Article 3gaa and submit a report to the European Parliament and to the Council.';

7. No later than 30 September 2033, the Commission shall assess the implementation of the derogation provided for in Article 12(3-e), taking into account technological developments, the availability and deployment of low- and zero-emission propulsion technologies and sustainable fuels suitable for ice-class ships, the impact of the derogation on the decarbonisation of maritime transport, and the appropriateness of extending its application beyond 31 December 2035 and, where appropriate, submit a legislative proposal to that effect.';

(8) in Article 4, 'Article 27' is replaced by 'Articles 27 and 27a'.

(9) in Article 6, the following paragraphs are added:

'3. The Commission is empowered to adopt implementing acts establishing rules for the granting, suspension and withdrawing of greenhouse gas emissions permit by the competent authority. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).

4. Where during the period referred to in Article 3, point (h), the competent authority successively grants for the first time a greenhouse gas emissions permit, withdraw that permit and then grant a new one, the installation shall only be reintroduced in the EU ETS in the following five-year period for free allocation referred to in Article 11(1), under the relevant status as incumbent installation or new entrant, as applicable. That installation shall remain outside the scope of the EU ETS for the rest of the five-year period for free allocation referred to in Article 11(1) during which the permit was successively granted for the first time and withdrawn.';

(10) in the title of Chapter III the word 'stationary' is deleted;

(11) the following Article is inserted:

‘Article 6a

Competent authority in respect of CO2 transport infrastructure 1. The competent authority in respect of CO2 transport infrastructure shall be the competent authority of the Member State where the CO2 that is being transported is captured. Where CO2 is captured outside the EEA, the competent authority shall be the competent authority of the first Member State of transit of the CO2.

2. The competent authorities pursuant to paragraph 1 and the competent authorities of transit or reception Member States shall exchange all relevant information necessary for the approval of monitoring plans and verification of emission reports of the CO2 transport infrastructures.’

(12) Article 9 is amended as follows:

(a) the fourth subparagraph is replaced by the following:

‘From 1 January 2026 and 1 January 2027 respectively, the quantity of allowances shall be increased to take into account the coverage of greenhouse gas emissions other than CO2 emissions from maritime transport activities and the coverage of emissions of offshore ships, based on their emissions for the most recent year for which data are available. Notwithstanding Article 10(1), the allowances resulting from that increase shall be made available to support innovation in accordance with Article 3gaa from 2030.’

(b) in Article 9, the following paragraphs are added:

‘In [2031/two years after inclusion of additional small ships in MRV], the Union-wide quantity of allowances shall be increased to take into account the coverage of emissions of the categories of ships below 5 000 gross tonnage but not below 400 gross tonnage referred to in Annex I, based on their emissions for the most recent year for which data are available. The allowances resulting from that increase shall contribute to the quantity referred to in Article 3gaa. The Union-wide quantity of allowances shall be increased in respect of municipal waste incineration by the following amounts, in consideration of the phase-in requirements established in Article 12a:

– 10.2 million allowances in 2031;

– 19.5 million allowances in 2032;

– 28.1 million allowances in 2033; and

– 36 million allowances in 2034, subject thereafter to the application of the linear reduction factor. The linear factor shall be 3.7% from 2031 to 2035 and

1.7% from 2036. The Commission shall publish the Union-wide quantity of allowances by September 2028.';

(13) the following Articles are inserted:

'Article 9b

Funding for international credits

1. Up to 260 million allowances from the Union-wide quantity of allowances referred to in Article 9 shall be made available to the facility for the purchase of up to 260 Mt of high quality and high integrity international credits, out of the international credits provided in Regulation 2021/1119/EU, to contribute to the climate ambition of the activities listed in Annex I from 2036 to 2040. All purchases shall be subject to the criteria of Regulation 2021/1119/EU being fulfilled.

2. Proceeds from the auctioning of allowances under paragraph 1 shall constitute external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council. The Commission shall ensure that the auctioning of allowances for the facility is in accordance with the principles and modalities referred to in Article 10(4), in due time for the start of the purchases.

3. By 31 January 2033, the Commission shall present to the European Parliament and to the Council a report assessing the development of a high-quality and high-integrity international credits market, taking into account all the criteria set out in Regulation 2021/1119/EU, and their availability to contribute to the climate ambition of the activities listed in Annex I, including the following:

   (a) the environmental integrity, accounting robustness and verification requirements that would need to be fulfilled for any such credits to contribute to the ambition of these sectors, taking into account developments under the Paris Agreement and EU legislation;

   (b) the development of the market for international credits, in terms of supply and demand;

   (c) the potential implications of such use for the functioning and integrity of the EU ETS;

   (d) the specific implications for sectors covered by the EU ETS, including the risk of carbon leakage, the impacts on competitiveness, the risk of mitigation deterrence, and the consistency with the Union's economy-wide climate neutrality objective.

4. Subject to the report in paragraph 3, by way of derogation from Article 9, in the event that high-quality and high-integrity, cost-effective international credits referred to in paragraph 1, are not available, the linear factor shall revert to 2.7% from 2036.

5. Allowances set aside under paragraph 1 shall be allocated to the Industrial Decarbonisation Bank for industrial decarbonisation projects in accordance with Article 10ce in the event they are not allocated for the purposes established in paragraph 1.

Article 9c

Domestic permanent carbon removals

1. The Union-wide quantity of allowances referred to in Article 9 shall be increased by 250 million allowances. Those allowances shall be made available to the Commission to auction them from 2031 to 2040 to generate revenues for the purchase of an equivalent amount of domestic permanent carbon removal units generated by BioCCS and DACCS activities under Regulation (EU) 2024/3012 of the European Parliament and of the Council*. The Commission shall purchase those removals units prioritising a portfolio of cost-effective, high-integrity projects with payment upon delivery of the certified units.

2. An additional 10 million allowances from the Union-wide quantity of allowances referred to in Article 9 between 2031 and 2040 shall be made available to the Commission to auction them to generate revenues for the purchase of those permanent carbon removals units, in the event the revenues generated from the allowances under paragraph 1 would be insufficient for the purchase of the total amount of domestic permanent carbon removals units.

3. Proceeds from the auctioning of allowances under paragraphs 1 and 2 of this Article shall constitute external assigned revenue in accordance with Article 21(5) of Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council**. The auctioning of allowances for the purchase of domestic permanent carbon removal units referred to in paragraph 1 of this Article shall be carried out in accordance with the principles and modalities referred to in Article 10(4) of this Directive. The allowances set aside under paragraphs 1 and 2 of this Article shall be returned to the Union-wide quantity of allowances referred to in Article 9 of this Directive in the event they are not auctioned for the purposes in paragraph 1 of this Article before 2041.

4. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the detailed modalities for the purchase of the domestic permanent carbon removal units indicated under paragraph 1, including the timing of the auctioning of the allowances referred to in paragraphs 1 and 2; the forms of support, selection procedure and criteria, eligibility criteria and technological requirements for the different types of support and payment mechanisms, using competitive allocation where feasible and reporting transparently on the outcome of the procedures; as well as the financial rules to ensure an appropriate implementation of the purchase. Those delegated acts shall ensure that any early auctioning of the allowances referred to in paragraphs 1 and 2 is balanced out through the auctioning of the allowances under Article 10, to achieve the equivalent effect of a gradual integration of carbon

removals towards the auctioning of 48 million of the allowances referred to in paragraphs 1 and 2 in 2040. Those delegated acts shall provide detailed modalities for the purchase of the domestic permanent carbon removals prioritising a portfolio of cost-effective, high-integrity projects with payment upon delivery of the certified units and aiming to limit fiscal exposure.

5. The quantity of domestic permanent carbon removals to be purchased shall be reduced by the amount of BioCCS domestic carbon removals that operators, aircraft operators and shipping companies use in accordance with Article 14(1a), and a corresponding amount of allowances shall be cancelled from the 250 million allowances referred to in paragraph 1.

6. Any permanent carbon removal certified units generated by BioCCS and DACCS activities under Regulation (EU) 2024/3012 and purchased by the Commission in accordance with this Article shall be cancelled and no longer be allowed to account as negative emissions under Article 14(1a) of this Directive.

7. The linear reduction factor established in Article 9 shall not apply to the increase of allowances established in paragraph 1.

8. Before 31 December 2034, the Commission shall present a report to the European Parliament and to the Council in which it assesses the progress regarding the purchase of domestic permanent carbon removal units provided for under paragraph 1, considering the available supply, and the price of domestic permanent carbon removal units in comparison with the assigned budget. The report shall also examine the possible contribution of nature based removals and carbon farming sequestration units certified under Regulation (EU) 2024/3012 to permanent carbon removals, and assess the feasibility to gradually transition, from an integration managed by the Commission, towards a direct integration by operators, beyond own use, of domestic permanent carbon removal units in the EU ETS.

* Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products (OJ L, 2024/3012, 6.12.2024, ELI: http://data.europa.eu/eli/reg/2024/3012/oj).

** Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (OJ L, 2024/2509, 26.9.2024, ELI: http://data.europa.eu/eli/reg/2024/2509/oj).';

(14) Article 10 is amended as follows:

(a) in paragraph 1, the first and second subparagraphs are replaced by the following:

'1. At least 57 % of the allowances available the Union-wide quantity of allowances referred to in Article 9 of this Directive that are not allocated in accordance with Articles 9, 3gaa, 3gab, 9c, 10cc and 19 of this Directive, shall be auctioned by the Member States, without prejudice to a possible reduction pursuant to Article 10a(5a) of this Directive, to the placing of allowances in the market stability reserve (MSR)

established by Decision (EU) 2015/1814* of the European Parliament and of the Council or to the cancellation of allowances in accordance with Article 12(4) of this Directive. The share of allowances to be auctioned by the Member States shall increase as a result of the application of the CBAM factor in accordance with Article 10a(1a) of this Directive. The quantity of allowances to be auctioned by the Member States shall be distributed in accordance with paragraph 2 of this Article.;

* Decision (EU) 2015/1814 of the European Parliament and of the Council of 6 October 2015 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and amending Directive 2003/87/EC (OJ L 264, 9.10.2015, pp. 1).'

(b) in paragraph 2, the following sentence is added to point (b):

'Spain, Cyprus, Malta and Slovenia shall use their additional allowances for the priority purposes listed in Article 10(3) first subparagraph.';

(c) paragraph 3 is replaced by the following:

'3. Member States shall determine the use of revenues generated from the auctioning of allowances referred to in paragraph 2 of this Article, except for the revenues established as own resources in accordance with Article 311, third paragraph, TFEU and entered in the Union budget. Member States shall use at least 50% of those revenues, with the exception of the revenues used for the compensation of indirect carbon costs referred to in Article 10a(6) of this Directive, or the equivalent in financial value of those revenues, to support the decarbonisation of ETS sectors, for one or more of the following priority purposes:

(a) to top-up the support mechanisms in this Directive for reducing climate impacts from ETS sectors;

(b) to develop clean energies, electricity storage and grids for electricity transmission and distribution particularly around industrial clusters in view of the increased electricity demand from industrial decarbonisation projects, as well as to meet the commitments on renewable energies, on energy efficiency and inter-connection set out in National Energy and Climate Plans;

(c) to finance investments in industrial decarbonisation and enabling measures for such decarbonisation, including investments in industrial electrification, clean industrial production technologies, the capture, use and storage of CO2 and the development of the CO2 transport network;

(d) measures to decarbonise the maritime sector, including the improvement of the energy efficiency of ships, ports, innovative technologies and infrastructure, electrification and sustainable alternative fuels, such as hydrogen and ammonia that are produced from renewables, and zero- emission propulsion technologies;

(e) measures to invest in innovative technologies to decarbonise aviation, including support to electrification, actions to reduce the overall climate impacts of aviation

and increase production of low-and zero-carbon fuels, and measures to support the decarbonisation of airports;

(f) measures to support modal shift towards decarbonised forms of transport;

(g) to support competent authorities involved in the collection and disposal of municipal waste in the implementation of measures in line with the higher steps of the waste hierarchy as defined in Article 4 of the Directive 2008/98/EC, namely waste prevention, preparing for reuse, separate collection, sorting and recycling;

(h) circularity measures to reduce emissions from ETS sectors;

(i) to support the development of lead markets for low-carbon and circular products such as bio-based fertilisers, bio-based chemicals or green steel;

(j) to finance research and development necessary for any of the purposes in points (a) to (h).'; Notwithstanding the first subparagraph, Member States may use the remainder of those revenues for which they determine the use for the following purposes:

(a) permanent carbon removal methods, such as direct air capture and storage;

(b) measures to avoid deforestation and support the protection and restoration of peatland, forests and other land-based ecosystems or marine-based ecosystems, including measures that contribute to the protection, restoration and better management thereof, in particular as regards marine-protected areas, and increase biodiversity-friendly afforestation and reforestation, including in developing countries that have ratified the Paris Agreement;

(c) forestry and soil sequestration;

(d) investments to reduce agricultural emissions linked to more efficient use of fertilisers in the Union or to greenhouse gases other than CO2, and to support end-users in the uptake of bio-based, organic and circular fertilisers, in line with the Fertilizer Action Plan;

(e) measures intended to reduce emissions in buildings, by improving energy efficiency, district heating systems and insulation, to support efficient and renewable heating and cooling systems, or to support the deep and staged deep renovation of buildings in accordance with Directive 2024/1275 of the European Parliament and of the Council*, starting with the renovation of the worst-performing buildings;

(f) to provide financial support to address social aspects related to climate change in lower- and middle-income households;

(g) to cover administrative expenses of the management of the EU ETS;

(h) to adapt to the impacts of climate change;

(i) to finance climate actions in vulnerable third countries, including the adaptation to the impacts of climate change and measures to transfer technologies;

(j) to promote skill formation and reallocation of labour in order to contribute to a just transition to a climate-neutral economy, in particular in regions most affected by the transition of jobs, in close coordination with the social partners, and to invest in upskilling and reskilling of workers potentially affected by the transition, including workers in maritime transport;

(k) to address any residual risk of carbon leakage in the sectors covered by Annex I to Regulation (EU) 2023/956 of the European Parliament and of the Council**, supporting the transition and promoting their decarbonisation in accordance with State aid rules. The use of revenues under the first and second subparagraph shall not prolong reliance on fossil fuels in power generation and shall be consistent with the transition to a safe and sustainable low-carbon economy, the objectives of the Union's 2040 climate and energy policy framework, and the climate-neutrality objective set out in Regulation (EU) 2021/1119. Member States shall inform the Commission as to the use of revenues and the actions taken pursuant to paragraphs 3 of this Article in their reports submitted under Article 19(2) of Regulation (EU) 2018/1999 of the European Parliament and of the Council***, specifying, where relevant and as appropriate, which revenues are used and the actions that are taken to implement their integrated national energy and climate plans submitted in accordance with that Regulation, and their territorial just transition plans prepared in accordance with Article 11 of Regulation (EU) 2021/1056 of the European Parliament and of the Council****. Member States shall disburse their revenues by the third year after the year of generation. The reporting shall be sufficiently detailed to enable the Commission to assess the Member States' compliance with paragraphs 3 of this Article, and Article 30m.;

* Directive 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings (recast) (OJ L 1275 8.5.2024, p. 1).

** Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52).

*** Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1)

**** Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1).'

(a) paragraph 5 is replaced by the following:

'5. The Commission shall monitor the functioning of the European carbon market. Each year, it shall submit a report to the European Parliament and to the Council on the functioning of the carbon market, including the operation of the auctions, liquidity and the volumes traded, and summarising the information provided by the European Securities and

Markets Authority (ESMA) in accordance with paragraph 6 and the information provided by Member States on the financial measures referred to in Article 10a(6). Member States shall submit any relevant information and report yearly by 30 June on the basis of a questionnaire or outline adopted by the Commission in the form of implementing acts pursuant to Article 21(1). The Commission shall publish the report on the functioning of the European carbon market within six months of receiving the relevant information and reports from the Member States.';

(b) the following paragraph is added:

'7. Where a Member State decides to top up ETS mechanisms that use allowances, the Member State may maintain this approach by refraining from auctioning so as to give its support in the same manner.';

(15) Article 10a is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

'1. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the Union-wide and fully harmonised rules for the allocation of allowances referred to in paragraphs 3b to 3d, 5, 7 and 19 of this Article.';

(b) paragraph 1a is amended as follows:

(i) the second subparagraph is replaced by the following:

'By way of derogation from the first subparagraph of this paragraph, for the first years of application of Regulation (EU) 2023/956, the production of goods listed in Annex I to that Regulation shall benefit from free allocation, in accordance with paragraphs 3a to 3d, in reduced amounts. A factor reducing the free allocation for the production of those goods shall be applied (CBAM factor). The CBAM factor shall be equal to 100 % for the period between the entry into force of that Regulation and the end of 2025 and, subject to the application of provisions referred to in Article 36(2), point (b), of that Regulation, shall be equal to 97,5 % in 2026, 95 % in 2027, 91.5 % in 2028, 81 % in 2029, 59% in 2030, 48% in 2031, 37,5% in 2032 and 27% in 2033, 15% from 2034 to 2037. From 2038, a CBAM factor of 0 % shall apply.';

(ii) the following subparagraph is added after the second subparagraph:

'Notwithstanding the second subparagraph, when additional goods are added to the list in Annex I to Regulation (EU) 2023/956 whose production benefits from free allocation, for these additional goods the CBAM factor shall be equal to 97,9 % in the first year and 95,8 % in the second year of the next five-year period referred to in Article 11 of this Directive following their inclusion in that Annex and shall decrease with the same CBAM factor set out in the second

subparagraph in each subsequent year starting with the CBAM factor of the year 2028. The CBAM factor shall be equal to 100 % in the period between the start of their inclusion in the Annex and the first year of the next five-year period referred to in Article 11 of this Directive.';

(iii) the fourth subparagraph is replaced by the following:

'With the exception of the allowances reserved for Articles 10cb and 10ce pursuant to Article 10cc, and of allowances set aside for new entrants pursuant to paragraph 7, first subparagraph, of this Article, allowances resulting from the reduction of free allocation shall be auctioned in accordance with Article 10(1).'

(c) in paragraph 2 is amended as follows:

(i) the following subparagraph is inserted after the second subparagraph:

'The Commission shall supplement this Directive by providing, in the delegated acts adopted pursuant to paragraph 1, first subparagraph, sector-specific definitions of sector-specific heat and fuel benchmarks, together with the corresponding system boundaries, and the starting point values for determining the annual reduction rate for the update of the benchmark values in the implementing acts referred to in the third subparagraph.';

(ii) in the third subparagraph, the following points are added after point (e):

'(f) For the period from 2031 to 2035, the benchmark values shall be determined in the same manner as set out in points (a) and (g) of this subparagraph, on the basis of information submitted pursuant to Article 11 for the years 2026 and 2027, and on the basis of applying the annual reduction rate in respect of each year between 2008 and 2033. Information submitted by a third country for installations in its territory in accordance with an agreement concluded pursuant to Article 25 may also be taken into account.

(g) Where the annual reduction rate exceeds 2 % or is below 0,3 %, the benchmark values for the period from 2031 to 2035 shall be the benchmark values applicable in the period from 2013 to 2020 reduced by whichever of those two percentage rates is relevant, in respect of each year between 2008 and 2033.

(h) For the period from 2036 to 2040, the benchmark values shall be determined in the same manner as set out in points (a) and (g) of this subparagraph, on the basis of information submitted pursuant to Article 11 for the years 2031 and 2032 and on the basis of applying the annual reduction rate in respect of each year between 2008 and 2038. Information submitted by a third country for installations in its territory in accordance with an agreement concluded pursuant to Article 25 may also be taken into account.

(i) Where the annual reduction rate exceeds 2% or is below 0,3%, the benchmark values for the period from 2036 to 2040 shall be the benchmark values applicable in the period from 2013 to 2020 reduced by whichever of those two percentage rates is relevant, in respect of each year between 2008 and 2038.';

(d) the following paragraphs are inserted after paragraph 2:

'3a. Starting in 2031, the third to sixth subparagraphs of paragraph 1 of this Article and the second to fifth subparagraphs of Article 10b(4) shall not apply.

3b. Operators of installations carrying out activities listed in Annex I shall establish, make publicly available and submit a plan to invest in decarbonisation in the EU ('Invest in EU decarbonisation plan') for the installations for which they apply for free allocation. Operators of incumbent installations shall submit the Invest in EU decarbonisation plan to the competent authority together with information submitted by 30 September 2029 and every five years thereafter pursuant to Article 11(1), second subparagraph. Operators of new entrants shall submit the Invest in EU decarbonisation plan to the competent authority together with their application for free allocation in accordance with the procedures established in delegated acts adopted pursuant to the first subparagraph of paragraph 1 of this Article. By way of derogation from the second subparagraph of this paragraph, the Invest in EU decarbonisation plan may be submitted at a later date, together with activity-level change reports submitted in accordance with the implementing acts adopted pursuant to paragraph 21. The plan referred to in the first subparagraph of this Article shall be consistent with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119 and shall include all the following elements:

(a) measures and investments in line with climate neutrality by 2050 at the level of the installation, considering the role of circularity measures, excluding the use of carbon offset credits ('decarbonisation measures and investments');

(b) intermediate targets to measure, by 31 December 2035 and by 31 December of each fifth year thereafter, progress made towards reaching climate neutrality through the measures and investments as set out in point (a). For each five-year period for free allocation referred to Article 11, the decarbonisation investments referred to in point (a) shall correspond to a volume at least equivalent to the economic value of 100% of the amount of free allocation under the relevant five-year period. These decarbonisation investments shall qualify as eligible costs, be implemented in the EU and lead to significant emissions reduction at the level of the installation within the relevant five-year period for which that installation is applying for free allocation, in accordance with the list and criteria established pursuant to paragraph 3e of this Article.

3c. Upon submission of an Invest in EU decarbonisation plan that has been verified in accordance with Article 15 and approved by the competent authority, 80 % of the amount

of free allocation to be received under the relevant five-year period shall be allocated annually to the installation. Where an installation has received allowances in accordance with the first subparagraph during each five-year period starting in 2031, but has then relocated or otherwise, directly or indirectly, transferred, in whole or in part, its relevant production capacity or the associated economic activity outside the Union, the Member State shall require the operator to reimburse the received allowances for the relevant allocation period. In the absence of reimbursement, the Member State shall deduct free allowances in the following years. The remaining 20 % of the amount of free allocation for that five-years period shall only be allocated to the installation after the confirmation, no later than two years after the end of the relevant five-year period, by the competent authority where the decarbonisation investments are implemented that the following conditions are met:

(a) the decarbonisation investments were implemented by that time and they were implemented in the EU;

(b) eligible costs corresponding to a volume at least equivalent to the economic value of 100% of the amount of free allocation under the relevant five-year period were invested;

(c) the existing annual reports referred to in Article 15 show that significant emissions reductions were achieved at the level of the installation in the relevant five-year period. Allowances that are not allocated in accordance with the first and third subparagraphs or that are returned in accordance with the second subparagraph shall be made available for free allocation in the subsequent five-year period. By way of derogation from the first subparagraph, where a project that was selected for the award of support under the Industrial Decarbonisation Bank and Investment Booster established under Articles 10cc, 10cd and 10ce or the Innovation Fund referred to in Article 10cb is being implemented in the installation during the five-year period under which it applies for free allocation, the operator of that installation shall be exempted from the obligation to establish a plan in accordance with paragraph 3b and shall receive 80 % of the amount of free allocation as referred to in the first subparagraph without additional verification. By way of derogation from the third subparagraph, the remaining 20 % of the amount of free allocation for the relevant five-year period shall only be allocated to that same installation, after the launch of the disbursement of support to the project under the Innovation Fund or upon the start of construction regarding projects awarded support under the Industrial Decarbonisation Bank or Investment Booster, and after where the competent authority confirms in accordance with the third subparagraph that eligible costs corresponding to a volume at least equivalent to the economic value of 100% of the amount of free allocation under the relevant five-year period were invested in the EU. The requirements set out in paragraph 3b and in the first and third subparagraphs of this paragraph shall not apply to the 10 % most efficient installations in a sector or subsector in the Union referred to in the first subparagraph of Article 10a(2) and in respect of the years used to determine the revised

benchmark values pursuant to the third subparagraph of that Article for the relevant five-year free allocation period, to zero emissions or low- carbon installations, to installations for which the operators, following a change in their production processes in accordance with Article 2(1), decide that they are is to remain within the scope of the EU ETS.

3d. Operators of installations applying for free allocation in accordance with this Article may request to form a pool of installations for the purposes of fulfilling jointly the investment requirements under paragraph 3b, fifth subparagraph. Operators who wish to form a pool shall apply to the competent authority by submitting an agreement they concluded for the purpose of fulfilling jointly the investment requirements ('joint decarbonisation investment agreement') specifying the installations and the period for which they want to form the pool. The joint decarbonisation investment agreement may relate to five or more calendar years, provided that the minimum duration of each agreement fully covers the five-year period referred to in Article 11 for which the installations are applying for free allocation. The joint decarbonisation investment agreement shall be concluded before submitting an application for free allocation and shall be submitted to the competent authority together with information submitted pursuant to the second subparagraph of Article 11(1). After the joint decarbonisation agreement has been submitted to the competent authority, other operators may only be added to that agreement under the next five-year period for free allocation referred to in Article 11. Where a joint decarbonisation investment agreement is concluded, the decarbonisation investments referred to in the fifth subparagraph of paragraph 3b shall correspond to a volume at least equivalent to the economic value of 100% of the amount of free allocation allocated to all installations that are part of the pool under the relevant five-year period.

3e. The Commission shall supplement this Directive by providing, in close consultation with the relevant stakeholders, in the delegated act adopted pursuant to the first subparagraph of paragraph 1, complementary implementation details as regards the free allocation provisions set out in paragraphs 3b to 3d of this Article, including:

(a) a list of requirements and eligible costs to qualify as decarbonisation investments;

(b) rules concerning the qualification as significant emissions reduction;

(c) a methodology for determining whether the measures and investments listed in the Invest in EU decarbonisation plan lead to significant emissions reduction;

(d) the detailed timeline for the submission of the Invest in EU decarbonisation plans;

(e) the methodology for determining the economic value of the quantity of free allowances received;

(f) rules regarding the reimbursement of allowances under paragraph 3c, second subparagraph;

(g) the requirements for installations to qualify as zero-emissions or low carbon under paragraph 3c, sixth subparagraph;

(h) the detailed conditions that shall apply to the derogations under paragraph 3c, fifth and sixth subparagraphs;

(i) the details of the application procedure to form a pool, including the minimum content and detailed conditions for the application to form a pool pursuant to paragraph 3d (including for installations in multiple Member States) and detailed timeline for its submission to the competent authority;

(j) the liability distribution for the fulfilment of investment requirements referred to in paragprah 3b, fifth subparagraph, when operators choose to form a pool. When determining the requirements for installations to qualify as zero emissions or low carbon, the Commission shall take into account the estimated sector specific emissions reductions that are necessary by 2040 and 2050 to be in line with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119, as well as the available low carbon technologies and other abatement options available for each sector, taking into account the net-zero technologies listed in Article 4 of Regulation (EU) 2024/1735. The Commission is empowered to adopt implementing acts to specify the following:

(i) the content of the information referred to in the fourth subparagraph of paragraph 3b, points (a) and(b);

(ii) the format of the Invest in EU decarbonisation plans. When specifying the format and content of the Invest in EU decarbonisation plans, the Commission shall seek synergies with similar plans as provided for in Union law and aim to provide for a simple format for the Invest in EU decarbonisation plans. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

Only to be debated if time is remaining.

(e) the following paragraph is added after paragraph 3e:

'3f. Where an installation received more allowances than the amount to be allocated in accordance with the rules for free allocation laid down under this Article, the competent authority shall require the installation to return such excess allowances and instruct the national administrator to transfer returning excess allowances.';

(f) paragraph 5a is replaced by the following:

'5a. By way of derogation from paragraph 5 of this Article, from the total quantity of allowances to be auctioned by the Member States pursuant to Article 10(1) between 2031 and 2040, an amount equivalent to 4 % of the Union-wide quantity of allowances referred to

in Article 9, for the period 2031 and 2040, shall, to the extent necessary, be used to increase the maximum amount available under paragraph 5 of this Article.'

(g) paragraph 5b is replaced by the following:

'5b. Until the end of 2030, where less than 3 % of the total quantity of allowances is needed to increase the maximum amount available under paragraph 5 of this Article, and from 2031 to 2040 where less than 4% of the total quantity of allowances is needed to increase the maximum amount available under paragraph 5 of this Article, the following shall apply:

(a) a maximum of 50 million allowances shall be used to increase the amount of allowances available to support innovation in accordance with the Innovation Fund established pursuant to Article 10a(8) or Article 10cb;

(b) any remaining allowances shall be used in accordance with Article 10cc.';

(h) paragraph 6 is replaced by the following:

'6. Member States should adopt financial measures in accordance with the second and fourth subparagraphs of this paragraph in favour of sectors or subsectors which are exposed to a genuine risk of carbon leakage due to significant indirect costs that are actually incurred from greenhouse gas emission costs passed on in electricity prices, provided that such financial measures are in accordance with State aid rules, and in particular do not cause undue distortions of competition in the internal market. The financial measures adopted should not compensate indirect costs covered by free allocation in accordance with the benchmarks established pursuant to paragraph 1. Member States shall also seek to use no more than 25 % of the revenues generated from the auctioning of allowances for the financial measures referred to in the first subparagraph. Member States that have the financial measures referred to in the first subparagraph in place shall inform the Commission as to the total amount of compensation provided per benefitting sector and subsector in their reports submitted under Regulation (EU) 2018/1999, as well as information on the implementation of the measures and their contribution to decarbonisation. In addition, in any year in which a Member State uses more than 25 % of their revenues generated from the auctioning of allowances for such purposes, it shall set out the reasons for exceeding that amount and shall include relevant information on electricity prices for large industrial consumers benefiting from such financial measures, without prejudice to requirements regarding the protection of confidential information, as well as include information on whether due consideration has been given to other measures to sustainably lower indirect carbon costs in the medium to long term. The Commission shall include in the report provided for in Article 10(5), inter alia, an assessment of the effects of such financial measures on the internal market and, where appropriate, recommend any measures that may be necessary pursuant to that assessment. Those measures shall be such as to ensure that there is adequate protection against the risk of carbon leakage, based on ex ante benchmarks for the indirect emissions of CO2 per unit of

production. Those ex ante benchmarks shall be calculated for a given sector or subsector as the product of the electricity consumption per unit of production corresponding to the most efficient available technologies and of the CO2 emissions of the relevant electricity production mix.';

(i) paragraph 7 is amended as follows:

(i) the first subparagraph is replaced by the following:

'Allowances from the maximum amount referred to in paragraph 5 of this Article which were not allocated for free by 2020 shall be set aside for new entrants, together with 200 million allowances placed in the market stability reserve pursuant to Article 1(3) of Decision (EU) 2015/1814 and 50 million allowances from the quantity of allowances resulting from the reduction of free allocation referred to in paragraph 1a of this Article.';

(ii) the third subparagraph is deleted;

(j) paragraphs 8 and 8a are deleted;

(16) Article 10b is amended as follows:

(a) in paragraph 1, second sentence, '2030' is replaced by '2040';

(b) in paragraph 4, the first subparagraph is replaced by the following:

'4. Other sectors and subsectors are considered to be able to pass on more of the costs of allowances in product prices, and shall be allocated allowances free of charge at 30 % of the quantity determined pursuant to Article 10a. Unless otherwise decided in the review pursuant to Article 30, free allocations to other sectors and subsectors, except district heating, shall decrease by equal amounts after 2026 so as to reach a level of no free allocation in 2030. Free allocation to district heating shall decrease by equal amounts after 2030 so as to reach a level of no free allocation in 2040.';

(17) the following articles are inserted:

'Article 10cb

Innovation Fund

1. A fund (the 'Innovation Fund') is hereby established to support bringing innovation to market, and scaling-up low-, zero-carbon and carbon negative products, processes and technologies that contribute significantly to the decarbonisation of sectors covered by this Directive.

2. The Innovation Fund shall be funded from the auctioning of 200 million allowances resulting from the reduction of free allocation in line with Article 10a(1a). To the extent that fewer than 50 million allowances remain available following the increase of the maximum amount under Article 10a(5) in accordance with Article 10a(5b), the difference

shall be made available to the Innovation Fund from the quantity which could otherwise be auctioned pursuant to Article 10 in 2028. Allowances destined for the Innovation Fund shall be auctioned in accordance with Article 10(4), with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509. The Commission shall ensure adequate resources are available for annual actions under the Innovation Fund. To this end, budgetary commitments may be broken down into annual instalments and resources be frontloaded while ensuring a balanced distribution of the fund allowances over time. Member States may support projects that meet all selection criteria but cannot be funded from the relevant call budgets by making additional financial resources available. To this end, they shall notify the Commission of their intention to do so before the closure of the relevant call for proposals.

3. The Innovation Fund shall support projects in the territory of all Member States in sectors listed in Annex I and III, including products, technologies and processes substituting carbon-intensive ones; innovative renewable energy and energy storage technologies, including the manufacturing of clean technologies; electrification; environmentally safe carbon capture and utilisation (CCU) that contributes substantially to mitigating climate change, environmentally safe capture, transport and geological storage (CCS) of CO2, in particular for hard-to-abate industrial emissions; direct atmospheric CO2 capture with safe, sustainable and permanent storage (DACCS); and breakthrough innovative technologies and infrastructure, including electrification, production of low- and zero-carbon fuels, to decarbonise maritime and aviation. For the aviation and maritime sectors, the Innovation Fund may also support measures to reduce the overall climate impact, including non-CO2 effects.

4. The Innovation Fund shall prioritise innovative technologies at a high level of technological readiness that are not yet commercially viable in line with the Union’s climate and energy targets as well as circularity objectives.

5. The Commission shall implement the Innovation Fund in accordance with Regulation (EU, Euratom) 2024/2509 in direct management or in indirect management through bodies referred to in Article 62(1)(c) of that Regulation. The Innovation Fund shall be implemented in synergy with other Union programmes. An action that has received a Union contribution from another programme may also receive another contribution under the Innovation Fund. The rules of the relevant Union programme shall apply to the corresponding contribution and, if it is based on eligible costs, the cumulative support from the Innovation Fund and that other Union programme shall not exceed the total eligible costs of the action and may be calculated on a pro-rata basis. Support from the Innovation Fund may take any form laid down in Regulation (EU, Euratom) 2024/2509 where necessary to achieve the objective of this Directive. By way of derogation from Article 212(3) of Regulation (EU, Euratom) 2024/2509 any revenue and repayments from instruments deployed under this Article paid back to the Commission shall be used for the

Innovation Fund as external assigned revenue pursuant to Article 21(5) of Regulation 2024/2509. In accordance with Article 196(2) of Regulation (EU, Euratom) 2024/2509, financial contributions may, where necessary for the implementation of projects deemed essential for security and economic resilience, cover actions that started prior to the date of the submission of the proposal for those actions. Where the Commission decides to disburse the Innovation Fund support through contributions to the ECF InvestEU Instrument, the Innovation Fund support shall be implemented in accordance with the rules applicable to the ECF InvestEU Instrument. However, the eligibility of the projects shall be assessed in accordance with this Article. In the case of grants, projects shall be selected through open calls for proposals in a transparent manner. In preparing the calls for proposals, the Commission shall strive to ensure that all sectors are duly covered and that the selection process remains simple and accessible. The Commission shall take measures to ensure that the calls are communicated as widely as possible, and especially to small and medium-sized enterprises. Grant funding shall be disbursed subject to pre-determined milestones in line with project advancement. The Commission may also select projects through competitive bidding. To deter speculative applications in calls for proposals or competitive bidding, the Commission may require applicants to provide a bid bond equivalent to a percentage share of the estimated total contract value, issued by an EU-authorised financial institution, as a guarantee of serious intent. The Commission may also require a completion bond issued by an EU-authorised financial institution equivalent to a percentage share of the total maximum requested support. The Commissions shall call a bid bond or a completion bond in the event of non-fulfilment of the obligations and commitments outlined in the grant agreement or bid. Any amount forfeited in accordance with this paragraph shall be used for the Innovation Fund as external assigned revenue pursuant to Article 21(5) of Regulation 2024/2509.

6. In implementing the Innovation Fund, the Commission shall strive to ensure effective, quality-based geographical coverage across the Union, ensure adequate participation of SME’s, in particular start-ups and scale-ups, and create synergies with other funding available at EU level, in particular Horizon Europe and the European Competitiveness Fund. In this context, the Commission may provide project development assistance and, on request, technical assistance to Member States with low effective participation in the Innovation Fund to address specific project challenges in those countries and improve geographical coverage. The Competitiveness Seal referred to in Article 8 Regulation (EU) […]/[…] of the European Parliament and of the Council* may be awarded to projects which have been assessed in an award procedure under the Innovation Fund and comply with the minimum quality requirements of that award procedure. The documents related to the award procedure may set out additional conditions.

7. Projects funded under this Article shall be required to share knowledge with other relevant projects and with Union-based researchers who have a legitimate interest.

8. The Commission shall report annually to the Climate Change Committee, the European Parliament and the Council on the implementation of the Innovation Fund, providing an analysis of funded projects by sector and Member State and an assessment of their expected contribution to Union climate neutrality under Regulation (EU) 2021/1119. Those reports shall be made public.

9. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Article with rules on the operation of the Innovation Fund, including the governance, eligibility, forms of support and related conditions, selection procedure, selection criteria, and procedural, organisational, and financial rules to ensure an appropriate implementation of the Innovation Fund in accordance with this Article.

* [OJ reference once adopted to Regulation (EU) […]/[…] of the European Parliament and of the Council on establishing the European Competitiveness Fund ('ECF') including the specific programme for defence research and innovation activities.]

Article 10cc

Industrial Decarbonisation Bank

1. An instrument to support the scaling up and deployment of the technologies, processes and techniques to decarbonise industries (the 'Industrial Decarbonisation Bank) is established starting from 2028. It shall accelerate industrial decarbonisation, including electrification, within the Union through supporting capital investment, including grid connection, storage and flexibility costs incurred by projects, and operational expenditure for emission reductions or removals in stationary installations carrying out or substituting industrial production processes referred to in Annex I of this Directive, including in installations for the incineration of waste. In the period from 2028 to 2030, 400 million allowances from the quantity of allowances available pursuant to the second indent of Article 10a(5b) shall be reserved to support industrial decarbonisation projects on a 'first in, first served' basis in accordance with Article 10cd. Where the allowances available pursuant to the second indent of Article 10a(5b) are less than the 400 million allowances referred to in the previous sentence, the difference shall be covered by allowances set aside pursuant to Article 10a(7). The allowances shall be available for projects in all Member States. In the first 18 months of operation, a share of allowances shall be reserved for projects in the group of Member States with a GDP per capita at market prices below 75 % of the Union average in the period 2022 to 2024, equal to 100 million allowances. After 18 months this reserved amount shall be reduced to 60 million.

2. In 2031, any remaining allowances from the 60 million allowances reserved for projects in Member States with a GDP per capita at market prices below 75% of the Union average in the period 2022 to 2024, shall be used in accordance with Article 10d. Any further remaining allowances shall be used in accordance with Article 10ce. In the period from 2031 to 2040, 400 million allowances from Union-wide quantity of allowances referred to

Article 9 shall be reserved to support industrial decarbonisation projects in accordance with Article 10ce. These allowances shall be auctioned in accordance with Article 10(4), with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509. Where the amount of allowances referred to in paragraph 1 is fully used in accordance with Article 10cd, the Commission shall make available support to projects in accordance with Article 10ce earlier than 2031. The amount of allowances auctioned by Member States pursuant to Article 9 shall be reduced where necessary to enable this earlier start. Allowances corresponding to the revenues generated from that amount shall be returned to Member States starting in 2031 from the allowances reserved in accordance with the second subparagraph of this paragraph.

3. Member States may support projects that meet all relevant criteria but cannot be funded from the relevant award procedure's budget under the Industrial Decarbonisation Bank pursuant to Article 10ce by making additional financial resources available. To this end, they shall notify the Commission of their intention to do so before the closure of the relevant award procedure.

4. Any revenues generated by activities under Articles 10cc and 10ce shall constitute external assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2024/2509 to the Industrial Decarbonisation Bank.

5. To ensure efficient use of Union resources, the Commission shall ensure synergies between the Industrial Decarbonisation Bank and the European Competitiveness Fund, particularly its 'Clean Transition and Industrial Decarbonisation' window. The Competitiveness Seal referred to in Article 8 of Regulation […]/[…] may be awarded to projects which have been assessed under the Industrial Decarbonisation Bank's procedures provided they comply with all quality requirements set out in the documents related to that procedure.

6. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive with rules on the operation of the Industrial Decarbonisation Bank, including procedural, organisational, and financial rules to ensure an appropriate implementation of the Industrial Decarbonisation Bank.

Article 10cd

Investment booster

1. Until 2030, in line with Article 10cc paragraph 1, the Commission shall support under the Industrial Decarbonisation Bank projects through allocating allowances based on a fixed carbon premium to eligible projects within the Union. The Commission shall publish open invitations for submissions of applications on the basis of which it will pre-select projects. The allowances shall then be allocated to pre-selected projects in a chronological order based on the date and time of submission of a completion bond until the amount referred to in Article 10cc is allocated or the Commission closes the invitation for submissions.

2. For the allocation of the allowances, including the pre-selection of projects, referred to in the first paragraph, the Commission shall publish Terms and Conditions developed in consultation with stakeholders. Those Terms and Conditions shall, in particular, set the fixed premium rate per tonne of CO2 emissions avoided, eligibility criteria, minimum requirements as regards emission reductions, mandatory documentation, size of the completion bond and monitoring and verification requirements. The Terms & Conditions may also provide mechanisms for sharing possible gains and for ensuring best value for money, such as a review of the fixed premium rate should there be indications that it is no longer appropriate in light of market developments and/or differentiated Terms and Conditions.

3. The completion bond referred to in paragraph 1 shall be issued by an EU-authorised financial institution equivalent to a percentage share of the total maximum requested support. It shall act as a performance guarantee, ensuring the project's timely implementation. It shall be released in two instalments, with 50% released upon start of physical construction and 50% upon start of operations.

4. Upon formal approval of the allocation under this Article, projects shall start physical construction within a maximum period of 30 months set in the relevant Terms and Conditions. Start of physical construction in the sense of this Article shall mean the start of building or assembly works on the project site, excluding preparatory works such as obtaining permits, conducting Front-End Engineering Design and other studies, or undertaking site clearance. Following the start of physical construction within the period set in the first sentence of this paragraph, the Commission shall release half of the completion bond. In the event a project has not started physical construction within the period set in the first sentence of this paragraph, the Commission shall call the completion bond in full. In addition, the support shall be revoked and all entitlements of the beneficiary of the support shall cease.

5. Following the start of operations of the project, the beneficiary of the support shall receive allowances periodically, upon independent verification of emissions avoidance, for a maximum period of 10 years. The Commission shall release the outstanding half of the completion bond. In case a project begins physical construction but fails to start operations, the Commission shall call the outstanding half of the completion bond. In addition, the support shall be revoked and all entitlements of the beneficiary of the support shall cease.

6. The allocation of allowances referred to in the previous paragraph shall correspond to the verified tonnes of CO_2 emissions avoided, multiplied by the fixed premium rate and divided by the average of the price of allowances in the auctions carried out in accordance with the delegated acts adopted pursuant to Article 10(4) of this Directive of the last 6 months preceding the allocation decision. The allocation of allowances under this paragraph may take into account possible other public support received for the project.

The Commission shall ensure appropriate accounting of the number of available allowances, before it adopts a decision on the allocation of allowances under this Article. It shall notably check that the remaining number of allowances reserved pursuant to Article 10cc is sufficient to cover the estimated demand for the allocation of allowances. Where more allowances need to be allocated to fulfil commitments taken, the Commission may take those additional allowances from the amount available pursuant to Article 10ce(1).

7. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Directive with rules on the operation of the Industrial Decarbonisation Bank as regards the Investment Booster, including eligibility rules, the pre-selection procedure and criteria, the allocation of allowances as well as the completion bond.

Article 10ce

Industrial Decarbonisation Bank phase two 1. From 2031, the Commission shall use the revenues from the number of allowances reserved in line with Article 10cc reserving 400 million allowances to support industrial decarbonisation projects within the Union through competitive bidding procedures awarding Carbon Contracts for Difference (CCfD) or carbon premia without prejudice to the use of other forms of support where appropriate.

2. Prior to launching a competitive bidding procedure, the Commission shall publish Terms and Conditions developed in consultation with stakeholders to specify in particular: eligibility criteria, mandatory documentation, size of the bid bond and the completion bond as well as monitoring and verification requirements, ensuring transparency.

3. CCFDs shall support industrial decarbonisation projects by compensating for the difference between the strike price determined via the competitive bidding procedure and the prevailing carbon price on the common auction platform over a term of up to 10 years. The instrument shall operate with payments conditional on verified emission reductions in line with the relevant Terms and Conditions. The Commission may require beneficiaries to repay excess support if the carbon price surpasses the strike price by more than a pre-determined percentage, ensuring cost-efficiency. Any such repayment shall be used under the Industrial Decarbonisation Bank as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2024/2509.

4. The Commission may require bidders under the competitive bidding procedure to submit a bid bond equivalent to a percentage share of the estimated total contract value, issued by an EU-authorised financial institution, as a guarantee of serious intent. Where a project is not selected, the bid bond shall be released immediately. The Commission shall call the bid bond in the event of non-fulfilment of the obligations and commitments outlined in the bid. Any amount forfeited in accordance with this paragraph shall be used for the

Industrial Decarbonisation Bank Fund as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2024/2509.

5. The Commission may also set in the Terms and Conditions a maximum period during which the project's physical construction shall start and may require beneficiaries to provide a completion bond issued by an EU-authorised financial institution equivalent to a percentage share of the total maximum requested support before the CCfD or carbon premium becomes legally effective. Start of physical construction in the sense of this paragraph shall mean the start of building or assembly works on the project site, excluding preparatory works such as obtaining permits, conducting Front-End Engineering Design and other studies, or undertaking site clearance. In the event a project has not started physical construction within the maximum period set in the Terms and Conditions, the Commission shall call the completion bond. In addition, the support shall be revoked and all entitlements of the beneficiary of the support shall cease.

6. In accordance with Article 196(2) of Regulation (EU, Euratom) 2024/2509, financial contributions may, where necessary for the implementation of projects deemed essential for security and economic resilience, cover actions that started prior to the date of the submission of the proposal for those actions.

7. For CCfDs or carbon premia awarded upon conclusion of a competitive bidding procedure under this Article, financial liabilities shall not exceed the proceeds of the auctioning of the total amount of allowances available to the Industrial Decarbonisation Bank. Prior to the launch of a competitive bidding procedure, the Commission shall adopt a financing decision setting out a maximum amount available for signing CCfDs or carbon premia based on an estimate of the proceeds and payment exposure, using a plausible range of carbon price scenarios. To ensure that no liabilities are created that exceed the budget of the Industrial Decarbonisation Bank, the Commission may also set in the relevant terms and conditions rules that effectively limit the financial liability arising from contracts.

8. The Commission is empowered to adopt delegated acts in accordance with Article 23 of this Directive to supplement this Directive in order to provide detailed rules on the implementation of CCfDs, including the competitive bidding procedure, the conditions for eligibility, the calculation of support, budgetary provisioning, contractual obligations, and the procedures for monitoring and verification.

9. In addition to CCfD awarded through competitive bidding, the Commission may choose to provide support under this Article in any way and form laid down in Regulation (EU, Euratom) 2024/2509, including through contributions to blending operations under the Union investment support instrument. The Commission is empowered to adopt delegated acts in accordance with Article 23 of this Directive to supplement this Directive concerning the detailed arrangements and modalities for operationalising such other forms of support.

10. Any revenue or repayment arising from instruments deployed under this Article and Article 10cd shall be used under the Industrial Decarbonisation Bank as external assigned revenue pursuant to Article 21(5) of Regulation (EU, Euratom) 2024/2509.'

(18) Article 10d is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. A fund to support investments proposed by Member States with a GDP per capita at market prices below 75 % of the Union average in the period 2022 to 2024 (the 'beneficiary Member States'), including the financing of small-scale investment projects, to modernise energy systems, improve energy efficiency, enhance industrial decarbonisation and electrification shall be established for the period from 2031 to 2040 (the 'Modernisation Fund'). The Modernisation Fund shall be financed through the auctioning of the following amounts of allowances from the total quantity of allowances to be auctioned by the Member States pursuant to Article 10(1) between 2031 and 2040: - an amount equivalent to 2 % of the Union-wide quantity of allowances referred to in Article 9 for the period 2031 and 2040, shall be auctioned to the beneficiary Member States and used as set out in Article 10d; - and an amount equivalent to 0,5 % of the Union-wide quantity of allowances referred to in Article 9 for the period 2031 and 2040, shall be auctioned to the benefit of the same Member States and be used to support investments on the basis of Article 10ce.' The funds corresponding to these amounts of allowances shall be distributed in accordance with Annex IIb. The investments supported shall be consistent with the aims of this Directive, as well as the objectives of the Communication of the Commission of 11 December 2019 on 'The European Green Deal' and Regulation (EU) 2021/1119 and the long-term objectives as expressed in the Paris Agreement. When selecting investments for support from the Modernisation Fund under this Article, the beneficiary Member States shall apply criteria and procedures which are non-discriminatory and transparent. To this end, they shall continuously provide information about ongoing and upcoming calls for expression of interests, calls for proposals and calls for tenders financed by the Modernisation Fund. The beneficiary Member States shall establish effective and efficient management and control systems for their investments and ensure their proper functioning in accordance with the principle of sound financial management. The beneficiary Member States may, where appropriate, use the resources of the Modernisation Fund to finance investments involving the adjacent border regions within the Union. No support from the Modernisation Fund shall be provided to energy generation facilities that use fossil fuels or facilities that transport fossil fuels.'

(a) paragraph 2 is replaced by the following:

‘2. At least 95 % of the revenue from allowances referred to in Article 10(1), third subparagraph, and from allowances covered by a notification pursuant to paragraph 4 of this Article, shall be used to support investments in the following:

(a) the generation and use of renewable energy sources, including biogas and biomethane;

(b) the reduction of overall energy use through energy efficiency by at least 20% in industry, transport and buildings, avoiding any risk of fossil fuel lock-in and fostering circularity, and the recovery of waste heat from incineration plants for district heating;

(c) electrification of demand side sectors including industry, buildings and transport;

(d) the modernisation and expansion of electricity, hydrogen, district heating and CO2 infrastructure, including energy storage;

(e) industrial decarbonisation, including CCS and CCU and electrification;

(f) support for low-income households, including in rural and remote areas, to address energy poverty and to modernise their heating systems;

(g) a just transition in carbon-intensive regions in the beneficiary Member States to support the redeployment, reskilling and up-skilling of workers, education, job-seeking initiatives and start-ups accelerating the clean energy transition;

(h) the production of affordable low-carbon and bio-based fertilisers.’;

(b) paragraph 4 is replaced by the following:

‘4. All beneficiary Member States shall use the amount of allowances distributed for the purposes of solidarity, growth and interconnections within the Union specified in Article 10(2)(b) in accordance with Article 10d, to support investments within the framework of the Modernisation Fund, thereby increasing the resources available to them under the Fund. Any Member State concerned may also use the amount of allowances to be auctioned by that Member State in accordance with Article 10(2)(a), or part of that amount, in accordance with Article 10d, Where a Member State intends to use allowances referred to in Article 10(2)(a) under Article 10d, it shall inform the Commission of the relevant amount at the latest by 30 September of the preceding calendar year.’

(c) in paragraph 6, the second subparagraph is replaced by the following:

‘Where an investment in line with the objectives of the Modernisation Fund, which is proposed to be financed from the Modernisation Fund, does not fall into the areas listed in paragraph 2, the investment committee shall assess the technical and financial viability of that investment, including the emission reductions it achieves, and issue a recommendation on financing the investment from the Modernisation Fund. The investment committee shall ensure that any investment financed from the

Modernisation Fund achieves a substantial improvement in emission reductions and, where relevant, in energy efficiency. That recommendation may include suggestions regarding appropriate financing instruments. Up to 50% of the relevant costs of an investment which does not fall into the areas listed in paragraph 2 may be supported with resources from the Modernisation Fund provided that the remaining costs are financed by private legal entities.'

(d) the following sentence is added in the beginning of paragraph 10:

'Beneficiary Member States shall make public the information about recipients and other information referred to in Article 38(2) of Regulation (EU, Euratom) 2024/2509 where applicable in relation to support from the Modernisation Fund.'

(e) in paragraph 11, '2024' is replaced by '2036'.

(19) The following Article is inserted:

'Article 10da

Rule of Law

1. Beneficiary Member States shall ensure the respect of the principles of the rule of law as set out in Article 2, point (a), and Article 3 of Regulation (EU, Euratom) 2020/2092 throughout the implementation of the Modernisation Fund.

2. Appropriate measures as set out in paragraph 3 may be taken where it is established that the breaches of the principles of the rule of law referred to in Article 4(2) of Regulation 2020/2092 in a beneficiary Member State affect or seriously risk affecting the sound financial management of the Modernisation Fund in a sufficiently direct way.

3. Provided that the condition set out in paragraph 2 is fulfilled, one or more of the following appropriate measures may be adopted, following the procedure in Article 10db.

(a) a suspension of the adoption of the disbursement decision referred to in Article 10d (3);

(b) a suspension of disbursements under disbursement decisions already adopted; The measures adopted shall respect the conditions provided for in Article 5(2) to (5) of Regulation 2020/2092 as appropriate.

4. The measures shall be adopted in accordance with the procedure laid down in Article 6 of Regulation 2020/2092. When triggering the procedure, the Commission shall verify that no other means exist to protect the revenues managed under the Modernisation Fund more effectively.

5. The measures shall be lifted in accordance with the procedure laid down in Article 7 of Regulation 2020/2092.

(20) Article 10f is replaced by the following:

‘Article 10f

‘Do no significant harm’ principle Revenues generated from the auctioning of allowances destined for the Modernisation Fund pursuant to Article 10d, for the Innovation Fund pursuant to Article 10cb and for the Industrial Decarbonisation Bank pursuant to Article 10cc of this Directive shall be used in line with the principle of ‘do no significant harm’ referred to in Article 33(2), point (d) of Regulation of Regulation (EU, Euratom) 2024/2509.’

Only to be debated if time is remaining.

(21) in the title of Chapter IV, the word ‘stationary’ is deleted;

(22) Article 12 is amended as follows:

(a) paragraph 3 is amended as follows:

(i) point (b) is replaced by the following:

‘(b) each aircraft operator surrenders a number of allowances that is equal to its total emissions during the preceding calendar year, as verified in accordance with Article 15, reduced as set out in paragraph 3-f to deduct costs incurred from CORSIA offsetting, and thereby avoid double charging.’;

(ii) the following paragraphs are inserted after paragraph 3:

‘3-g. By way of derogation from paragraph 3, first subparagraph, point (c), shipping companies may surrender fewer allowances than their verified emissions in respect of emissions released until 31 December 2035 from voyages from a port of call outside the jurisdiction of a Member State to a port of call under the jurisdiction of a Member State if performed by containerships of 10 000 TEU and above, if the distance of the voyage exceeds 300 nautical miles. Where the shipping companies benefit from the derogation referred to in the first subparagraph, they may surrender fewer allowances than their verified emissions in respect of emissions released from the activities within a port in relation to the voyages referred to in the first subparagraph. The amount of allowances to be surrendered in respect of the containership referred to in the first subparagraph at the port of call under the jurisdiction of a Member State, shall be reduced on the basis of the share of containers, measured in twenty-foot equivalent units, unloaded at the port of call under the jurisdiction of a Member State for the sole purpose of being loaded onto another ship, performing a voyage between the same port of call and a port of call outside the jurisdiction of a Member State, compared to the total number of containers unloaded by the containership. Where fewer allowances are surrendered compared to the verified emissions, once the difference between verified emissions and allowances surrendered has been

established in respect of each year, an amount of allowances corresponding to that difference shall be cancelled rather than auctioned pursuant to Article 10. 3-f. On routes subject to the offsetting requirement calculated pursuant to paragraph 6 of this Article, the reduction of the surrender obligation shall correspond to the aircraft operator's offsetting requirement, as calculated pursuant to paragraph 6 of this Article, in proportion to the extent the route is covered by the surrender obligation, multiplied by the ratio between the average price of allowances and the average price of credits eligible under Article 11a. The ratio shall be calculated using best available price indices for credits published in the carbon market report published pursuant to Article 10(5). In case the cancelation of units pursuant to paragraph 9 does not take place for a certain period described in that paragraph, allowances shall be surrendered for the deductions that took already place for the years in that period, no later than 30 September of the year following the date of the notification of the final offsetting obligation. In case the final offsetting requirement pursuant to paragraph 6 is not communicated to aircraft operators and the cancelation of units pursuant to paragraph 9 does not take place for a certain period described in that paragraph, allowances shall be surrendered for the deductions that took already place for the years in that period, no later than 30 September of the year following the due date of the notification of the final offsetting obligation.';

(b) in paragraphs 3-e, 3-d, 3-c, and 3-b, the date of '31 December 2030' is replaced by '31 December 2035';

(c) paragraph 3a is replaced by the following:

'3a. An obligation to surrender allowances shall not arise in respect of emissions verified as captured and transported for permanent storage to a facility for which a permit is in force in accordance with Directive 2009/31/EC of the European Parliament and of the Council *, or on a reciprocal basis from 2031 to a facility with a valid permit for geological storage in a third country with a greenhouse gas emissions trading system which is linked to the EU ETS pursuant to Article 25 of this Directive and in respect of which the Commission adopts an implementing decision confirming sufficient safeguards with respect to the rules set out in Directive 2009/31/EC are in place and provided the facility is not used for enhanced oil or gas recovery.

* Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p. 114).'

(d) paragraph 3b is replaced by the following:

'3b. An obligation to surrender allowances shall not arise in respect of carbon dioxide emissions which are considered to have been captured and utilised in such a way that they have become:

(a) permanently chemically bound so that they do not enter the atmosphere under normal use, including any normal activity taking place after the end of the life of the product, or (b) chemically bound so that they will be primarily emitted in activities listed in Annex I and subject to a surrender obligation under Article 12(3). The Commission shall adopt delegated acts in accordance with Article 23 to supplement this Directive concerning the requirements for considering that greenhouse gases have become permanently chemically bound or chemically bound as referred to in the first subparagraph of this paragraph, and list the types of utilisation that are considered to meet or not to meet these requirements. Those delegated acts may determine de minimis thresholds for the risk of not meeting those requirements and may introduce measures, such as partial surrender requirements, to address carbon leakage risks when these thresholds are exceeded.'

(e) paragraph (9) is replaced by the following:

'9. Aircraft operators that hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State, shall cancel units referred to in Article 11a only in respect of the quantity notified by that Member State, in accordance with paragraph 6, in respect of the relevant CORSIA compliance period. The cancellation shall take place by 31 January 2025 for emissions in the period 2021 to 2023, by 31 January 2028 for emissions in the period 2024 to 2026, by 31 January 2031 for emissions in the period 2027 to 2029, by 31 January 2034 for emissions in the period 2030 to 2032 and by 31 January 2037 for emissions in the period 2033 to 2035.';

(23) the following articles are inserted:

'Article 12a

Phase-in of requirements for waste incineration and waste co-incineration Waste incineration and waste co-incineration installations that become subject to the system from 2031 shall be liable to surrender allowances according to the following schedule:

(a) 25% of verified emissions reported for 2031 that would be subject to surrender requirements in accordance with Article 12;

(b) 50% of verified emissions reported for 2032 that would be subject to surrender requirements in accordance with Article 12;

(c) 75 % of verified emissions reported for 2033 that would be subject to surrender requirements in accordance with Article 12;

(d) 100% of verified emissions reported for 2034 and each year thereafter in accordance with Article 12. By way of derogation from the first paragraph of this Article, Member States may exempt waste incineration and waste co-incineration

installations located in outermost regions within the meaning of Article 349 TFEU from the obligation to surrender allowances until 31 December 2035.

Article 12b

Opt-out for waste incineration and co-incineration 1. By way of derogation from Articles 12 and 12a, the competent authority of a Member State may exempt installations under the activity ‘Waste incineration and waste co- incineration’ referred to in Annex I, from the obligation to surrender allowances for the emissions of a given reference year up to 2035, provided that the Member State demonstrates that at least two out of the following three conditions are met:

(a) The Member State concerned has a national carbon tax in force for the emissions of the years 2031 to 2035, covering the activity referred to in in Annex I; the national law setting the tax rates applicable for the years 2031 to 2035 has, by the date of notification in accordance with 31July 2029, entered into force; for the reference year, the national carbon tax of the Member State concerned effectively paid by that regulated entity is higher than the average auction clearing price of the emissions trading system established under this Chapter, adjusted for the gradual phase-in for the sector in accordance with Article 12a; the Member State concerned shall notify the Commission of any subsequent change to the national carbon tax;

(b) The Member State concerned has the policies in place to achieve the targets under Article 11(2)(d) and (e) of Directive 2008/98/EC and is on track to meet those targets;

(c) The Member State concerned has the policies in place to achieve the target under Article 5(5) of Directive 1999/31/EC and is on track to meet that target.

2. The Member State concerned shall cancel an amount of allowances from the total quantity of allowances to be auctioned by it, referred to in Article 10, for each reference year, which is equal to the verified emissions of the relevant installations for the reference year. The allowances shall be cancelled in accordance with the delegated acts adopted pursuant to Article 10(4).

3. By 31 July 2029, the Member State concerned shall notify the Commission of its request for the opt-out, demonstrating compliance with at least two out of the three conditions in paragraph 1, and indicating the corresponding amount of allowances to be cancelled in accordance with paragraph 2.

4. The derogation shall enter into force if the Commission does not raise an objection to the application of the derogation on the ground that the measure notified is not in conformity with the conditions set out in this paragraph, within three months of a notification under this paragraph.

5. The amount of allowances to be cancelled under paragraph 2 shall not affect, where it has been established pursuant to Article 311, third paragraph, TFEU, the own resources of the Union budget pursuant to Council Decision (EU, Euratom) 2020/2053 from the revenues generated from auctioning of allowances in accordance with Article 10 of this Directive.

6. The installations concerned shall continue to fully comply with the obligations under Article 14 on monitoring and reporting of its emissions and Article 15 on verification and accreditation.'

Only to be debated if time is remaining.

(24) Article 14 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

'The Commission is empowered to adopt implementing acts concerning the detailed arrangements for the monitoring and reporting of emissions and, where relevant, activity data, from the activities listed in Annex I to this Directive, and non-CO2 aviation effects on routes for which emissions are reported under this Directive, which shall be based on the principles for monitoring and reporting set out in Annex IV to this Directive and the requirements set out in paragraphs 2 and 5 of this Article. Those implementing acts shall also specify the global warming potential of each greenhouse gas and take into account up-to-date scientific knowledge on the effects of non-CO2 aviation emissions in the requirements for monitoring and reporting of emissions and their effects, including non-CO2 aviation effects. Such implementing acts shall provide for the application of the sustainability and greenhouse gas emission-saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, in order for such biomass to be zero-rated. They shall specify the order of capture and how to account the emissions from captured CO2 from a mix of zero-rated and non-zero-rated sources. They shall also specify how to account for emissions from synthetic fuels, ensuring that such emissions are accounted for and that double counting is avoided. Carbon chemically bound in synthetic fuels shall be considered to be emitted by the activity of distribution of synthetic fuels established in Annex I.'

(b) the following paragraph is inserted:

'1a. The acts referred to in paragraph 1 shall provide for the possibility for operators, aircraft operators and shipping companies to compensate their fossil emissions with domestic permanent carbon removal units generated from the storage of their biogenic emissions under the scope of this Directive and certified under Regulation (EU) 2024/3012, while avoiding the double counting of those negative emissions.'

(25) Article 19 is amended as follows:

(a) in paragraph 1, the second subparagraph is deleted;

(b) the following paragraph is inserted after paragraph 1:

‘1a. In the period until 2040, the Commission shall use up to a maximum of 5 million allowances from the Union-wide quantity of allowances referred to in Article 9 to cover expenses linked with the functioning and management of the EU ETS, including the financing of the operation of the Union Registry. These allowances shall be auctioned in accordance with Article 10(4) of this Directive, with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509. In the event that the allowances set aside under the first subparagraph of this paragraph are not auctioned for the purposes established in the first subparagraph of this paragraph before 2041, they shall be used to increase the amount available for new entrants pursuant to Article 10a(7). The acts referred to in paragraph 3 of this Article shall specify the conditions, modalities and procedures under which the Central Administrator designated by the Commission pursuant to Article 20(1) shall make use of revenues from the auctioning of allowances pursuant to this paragraph.’;

(26) Article 20 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The Commission shall designate a Central Administrator to maintain a Union registry recording the issue, transfer and cancellation of allowances.’;

(b) paragraph 2 is replaced by the following:

‘2. The Central Administrator shall conduct automated checks on each transaction in the Union registry to ensure there are no irregularities in the issue, transfer and cancellation of allowances.’;

(c) paragraph 3 is deleted;

(27) Article 21 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Each year the Member States shall submit to the Commission a report on the application of this Directive. That report shall pay particular attention to the arrangements for the allocation of allowances, the operation of registries, the application of the implementing measures on monitoring and reporting, verification and accreditation and issues relating to compliance with this Directive and on the fiscal treatment of allowances, if any. The first report shall be sent to the Commission by 30 June for every reporting year. The report shall be drawn up on the basis of a questionnaire or outline adopted by the Commission in the form of implementing acts.

Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2). The questionnaire or outline shall be made available to Member States at least six months before the deadline for the submission of the first report and as early as possible before the deadline for the submission of each annual report thereafter, following a consultation process on a revised questionnaire with Member States where applicable.';

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

'3. The Commission shall organise an exchange of information between the competent authorities of the Member States concerning developments relating to issues of allocation, the operation of registries, monitoring, reporting, verification, accreditation, information technology, and compliance with this Directive.';

(d) paragraph 4 is replaced by the following:

'4. Every three years, the report referred to in paragraph 1 shall also pay particular attention to the equivalent measures adopted for small installations excluded from the EU ETS. The issue of equivalent measures adopted for small installations shall also be considered in the exchange of information referred to in paragraph 2.';

(28) Article 23 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The power to adopt delegated acts referred to in Article 3c(6), Article 3d(3), Article 3gaa, Article 3gab, Article 9c, Article 10(4), Article 10a(1), (8) and (8a), Article 10a(3e), Article 10b(5), Article 10cb(9), Article 10cc(6), Article 10cd(7), Article 10ce(9), Article 12(3b), Article 19(3), Article 22, Article 24(3), Article 24a(1), Article 25a(1), 25b(6) 25b(7), Article 28c and Article 30j(1) shall be conferred on the Commission for an indeterminate period of time from 8 April 2018.'

(b) paragraph 3 is replaced by the following:

'3. The delegation of power referred to paragraph 2 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.'

(c) paragraph 6 is replaced by the following:

'6. A delegated act adopted pursuant to the articles referred to in paragraph 2 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act

to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

(29) Article 25a is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. In respect of emissions released until 31 December 2035 from flights to or from States that are listed in the implementing act adopted pursuant to paragraph 3 of this Article, aircraft operators shall not be required to surrender allowances in accordance with Article 12(3) in respect of those emissions.';

(b) paragraph 8 is replaced by the following:

'8. Where aircraft operators that hold an air operator certificate issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State, operate flights between a Member State and a State listed in the implementing act adopted pursuant to paragraph 3 of this Article, or a flight between two different States listed in that implementing act, including flights that take place between Switzerland, the United Kingdom and States listed in the implementing act adopted pursuant to paragraph 3 of this Article, and those States allow aircraft operators to use units other than those on the list adopted pursuant to Article 11a(8) and that could lead to a significant distortion of competition, the Commission shall be empowered to adopt implementing acts, on the request of a Member State, allowing those aircraft operators to use unit types additional to those on the list or not to be bound by the conditions of Article 11a(2) and (3) in respect of emissions from such flights. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22a(2).';

(30) the following Article 25b is inserted:

'Article 25b

ETS as a service

1. Administrative and technical support and coordination may be provided for third countries to facilitate greenhouse gas emissions pricing ('ETS as a service'), in particular in respect of emissions released from the following activities:

(a) aviation as set out in Annex I in respect of the emissions from flights between the EEA and the third country;

(b) maritime transport as set out in Annex I in respect of the remaining fifty percent (50%) of the emissions released during voyages between a port of call under the jurisdiction of a Member State and a port of call under the jurisdiction of the third

country that fall outside the scope laid down in Article 3ga. Such support shall be provided in respect of emissions from aviation from reporting year 2027 at the earliest, and in respect of emissions from maritime transport from reporting year 2029 at the earliest.

2. Where aviation or maritime emissions are priced pursuant to paragraph 1 of this Article, with an absolute emissions cap, the third country shall benefit from revenues to tackle climate change as follows:

(a) for aviation, for fifty percent (50%) of the aviation activity between the EEA and the third country;

(b) for maritime, for the remaining fifty percent (50%) of the emissions released during voyages between a port of call under the jurisdiction of a Member State and a port of call under the jurisdiction of the third country that fall outside of the scope laid down in Article 3ga. In the absence of national auctioning of allowances, these allowances shall be auctioned by the Union on the common auction platform appointed pursuant to the delegated act adopted in accordance with Article 10(4) of this Directive and in accordance with the principles and modalities referred to in Article 10(4) of this Directive, with proceeds constituting external assigned revenue under Article 21(5) of Regulation (EU, Euratom) 2024/2509. The corresponding revenues generated from the auctioning of these allowances shall be transferred to the third country.

3. Where allowances are auctioned by the Union in accordance with paragraph 2 of this Article, the Union-wide quantity of allowances referred to in Article 9 shall be increased to take into account the coverage of emissions from aviation and maritime transport referred to in this Article, first paragraph, based on their emissions for the most recent year for which data are available. The linear reduction factor shall also apply to these allowances.

4. In advance of national administration procedures being in place in the relevant third countries, Member States which administer relevant aircraft operators and shipping companies shall undertake administrative functions in their regard. Optimum interaction shall be ensured for the administration of aircraft operators and shipping companies and for ensuring effective enforcement.

5. The Commission, assisted by EMSA, shall endeavour to make available the tools and guidance referred to in Article 18b(2).

6. The Commission is empowered to adopt delegated acts in accordance with Article 23 to amend Article 3ga(1) concerning the coverage of the remaining emissions released during voyages between ports of call under the jurisdiction of a Member State and the ports of call of a third country to which support is provided in accordance with this Article.

7. The Commission is empowered to adopt delegated acts in accordance with Article 23 to supplement this Article with rules on the operation of ETS as a service, to ensure implementation of ETS as a service in accordance with this Article.';

(31) Article 28a is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

'(a) all emissions from flights departing from an aerodrome located in an outermost region of a Member State or in dependencies and territories to States outside the EEA, with the exception of flights to aerodromes located in the United Kingdom or Switzerland and to and from Gibraltar, in each calendar year from 1 January 2029 to 31 December 2032, subject to the review referred to in Article 28b, except for aircraft operators operating flights between two different States with total annual emissions lower than 10 000 tonnes per year calculated in accordance with Annex I;';

(ii) the following points are is added after point (b): '(c) all emissions from flights to and from least developed countries and small island developing States as defined by the United Nations listed in the implementing act adopted pursuant to Article 25a(3), other than those States whose GDP per capita equals or exceeds the Union average;

(d) all emissions from flights to and from aerodromes located in States outside the EEA, with the exception of flights to aerodromes located in the United Kingdom or Switzerland and to and from Gibraltar, in each calendar year from 1 January 2027 to 31 December 2028, except for aircraft operators operating flights between two different States with total annual emissions lower than 10 000 tonnes calculated in accordance with Annex I, for whom in each calendar year from 1 January 2027 to 31 December [2027/ the year before the entry into force of this Directive];

(e) all emissions from flights to aerodromes that are more than 5 000 km from the aerodrome of Frankfurt and located in States outside the EEA in each calendar year from 1 January 2029 to 31 December 2032, except for aircraft operators operating flights between two different States with total annual emissions lower than 10 000 tonnes calculated in accordance with Annex I. This point shall also apply in respect of aerodromes that are less than 5 000 km from the aerodrome of Frankfurt, are located in States outside the EEA and have less than 15 000 tonnes annual emissions from flights from the EEA to them.';

(iii) the following subparagraph is added:

‘From 1 January 2027, the total quantity of allowances to be allocated in respect of aircraft operators as laid down in Article 3c(5) shall be increased annually whenever an extension of the coverage of flights subject to requirements pursuant to Article 12(3) takes place by the number of allowances equal to the emissions from such flights two years before such extension becomes effective, and from the subsequent year shall be subject to the application of the linear factor referred to in Article 9. That amount should be reduced by the amount equal to the total reductions of the surrender obligations pursuant to Article 12(3), point (b) resulting from an offsetting obligation pursuant to Article 12(6).’;

(b) paragraph 2 is replaced by the following:

‘2. By way of derogation from Article 3d(3), the quantity of allowances to be auctioned by each Member State in respect of the period from 1 January 2027 to 31 December 2032 shall be reduced to correspond to its share of attributed aviation emissions from flights which are not subject to the derogations provided for in Article 3c(8) and in paragraph 1, points (a) to (e) of this Article.’;

(c) paragraph 4 is replaced by the following:

‘4. By way of derogation from Articles 3g, 12, 15 and 18a of this Directive, where an aircraft operator has total annual emissions lower than 25 000 tonnes of CO2, calculated in accordance with ‘Aviation’, point (j), of Annex I to this Directive, or where an aircraft operator has total annual emissions lower than 10 000 tonnes of CO2 subject to surrender obligation pursuant to Article 12(3) of this Directive, point (b), not taking into account emissions for which the surrender obligation is considered to be satisfied under Article 3c(8) or Article 28a(1) of this Directive, its emissions shall be considered to be verified emissions if determined by using the small emitters tool approved under Commission Regulation (EU) No 606/2010 * and populated by Eurocontrol with data from its ETS support facility. Member States may implement simplified procedures for non-commercial aircraft operators as long as such procedures provide no less accuracy than the small emitters tool provides.

* Commission Regulation (EU) No 606/2010 of 9 July 2010 on the approval of a simplified tool developed by the European organisation for air safety navigation (Eurocontrol) to estimate the fuel consumption of certain small emitting aircraft operators (OJ L 175, 10.7.2010, p. 25 ELI: http://data.europa.eu/eli/reg/2010/606/oj.)’;

(d) the following paragraph is added:

‘6. In addition to the amount reserved for the use of eligible aviation fuels and electricity pursuant to Article 3c(6), taking into account the provisional restriction of the geographical scope pursuant to Article 28a(1), point (d), a further maximum 110 million allowances of the allowances referred to in third subparagraph of paragraph 1 shall be reserved for the purposes laid down in Article 3c(6) until 31 December 2040.

From 1 January 2029, the amount shall be available for all flights departing from an aerodrome loacted in the EEA, with the restrictions for business flights pursuant to Article 3c(6). From this date, the two last sentences of Article 3c(6), first subparagraph, shall not apply for the allocation of allowances pursuant to that Article.';

Only to be debated if time is remaining.

(32) In Article 28b, the following paragraph is added:

'(4) By 1 July 2032, the Commission shall submit to the European Parliament and to the Council a report in which it shall assess the environmental integrity of ICAO's global market-based measure, including its general ambition in relation to targets under the Paris Agreement, the level of participation in offsetting under CORSIA, its enforceability, transparency, the penalties for non-compliance, the processes for public input, the quality of offset credits, monitoring, reporting and verification of emissions, registries, accountability as well as rules on the use of biofuels, with special regard to the developments happened since 2027. The Commission shall also publish that report by 1 July 2032. The Commission's report shall be accompanied by a legislative proposal, where appropriate, to amend this Directive in a way that is consistent with the Paris Agreement temperature goal, the Union's economy-wide greenhouse gas emission reduction commitment for 2040 and the objective of achieving climate neutrality by 2050 at the latest, and with the aim of preserving the environmental integrity and effectiveness of the Union's climate action. An accompanying proposal shall, as appropriate, restrict the application of the EU ETS to flights between two aerodromes located in States in the EEA, to aerodromes located in Switzerland and the UK and to and from Gibraltar where the report shows that:

(a) CORSIA has been strengthened in line with achieving its long-term global aspirational goal, towards meeting the Paris Agreement goals; and (b) States listed in the implementing act adopted pursuant to Article 25a(3) represent more than 70% of international aviation emissions using the most recent available data.';

(33) in Article 30 is amended as follows;

(a) in paragraph 7, first subparagraph, the sole footnote is deleted;

(b) the following paragraph is added:

'9. By 31 December 2034, the Commission shall present a report to the European Parliament and to the Council in which it shall assess the appropriateness of including in the EU ETS emissions from landfills. In that regard, the Commission shall take into account any potential evidence of diversion of waste towards disposal

by landfilling. The Commission may, where appropriate, accompany that report with a legislative proposal to include landfills in the EU ETS.';

(34) in Article 30m, paragraph 3 is replaced by the following:

'Member States shall ensure the visibility of the source of the funding of actions or projects funded from the EU ETS auctioning revenues of which they determine the use in accordance with Article 3d(4), Article 10(3) and Article 30d(6), corresponding to what is referred to in paragraph 1, points (a) and (b), of this Article.';

(35) Annexes I to V are amended as set out in the Annexes to this Directive;

Article 2

Amendments to Decision (EU) 2015/1814

Article 1 of Decision (EU) 2015/1814 is amended as follows:

(1) in paragraph 4a, the first subparagraph is replaced by the following:

'As from 2024, the calculation of the total number of allowances in circulation in any given year shall include the cumulative number of allowances issued in respect of aviation and the cumulative tonnes of verified emissions from aviation under the EU ETS, excluding emissions from flights on routes covered by offsetting calculated pursuant to Article 12(6) of Directive 2003/87/EC, between 1 January 2024 and 31 December of that same given year. That calculation shall also cover the cumulative number of allowances issued in respect of aviation and the cumulative tonnes of verified emissions from aviation under the EU ETS, excluding emissions from flights on routes covered by offsetting calculated pursuant to Article 12(6) of Directive 2003/87/EC, over the period between 1 January 2012 and 31 December 2023';

(2) in paragraph 5, the first subparagraph is replaced by the following:

'In any given year, if the total number of allowances in circulation is between 833 million and 947 million, a number of allowances equal to the difference between the total number of allowances in circulation, as set out in the most recent publication as referred to in paragraph 4 of this Article, and 833 million shall be deducted from the quantity of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and shall be placed in the reserve over a period of 12 months beginning on 1 September of that year. If the total number of allowances in circulation is above 947 million allowances, the number of allowances to be deducted from the quantity of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC and to be placed in the reserve over a period of 12 months beginning on 1 September of that year shall be equal to 12 % of the total number of allowances in circulation. From 2029, the thresholds of 833 and 947 million under this paragraph shall decrease annually by 4%, rounded to the nearest million, as specified in the Annex'.

(3) paragraph 6 is replaced by the following:

‘6. In any year, if the total number of allowances in circulation is between 300 million and 400 million, a number of allowances equal to the difference between 400 million and the total number of allowances in circulation shall be released from the reserve. If the total number of allowances in circulation is less than 300 million, an amount of 100 million allowances shall be released from the reserve. From 2029, the thresholds of 400 million and of 300 million and the amount of 100 million allowances to be released from the reserve, set out in the previous subparagraph, shall decrease annually by 4 %, rounded to the nearest million, as specified in the Annex. Where fewer allowances are in the reserve than must be released in accordance with this paragraph, the release shall be equal to the allowances that remain in the reserve. The amount of allowances released from the reserve under this paragraph shall be added to the volume of allowances to be auctioned by the Member States under Article 10(2) of Directive 2003/87/EC.’

Only to be debated if time is remaining.

Article 3

Transposition

1. Member States shall adopt and publish, by 31 December 2028 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions. They shall apply those provisions from 1 January 2029. However, Member States shall apply those provisions necessary to comply with the following provisions from the following dates (a) from 1 January 2031:

(i) Article 1, point (5), [as regards the new second paragraph of Article 3ga(1) of Directive 2003/87/EC] [N.B.: date of application may need to be changed to ensure it starts 2 years after MRV Maritime application in 2029];

(ii) Annex I, point 1(c)(iii) to (v) regarding the amendments to the activities on capture of carbon dioxide, transport of carbon dioxide, utilisation of carbon dioxide, processing of carbon dioxide and distribution of synthetic fuels in rows twenty-six, twenty-seven, and the rows inserted after the twenty-eight row in Annex I to Directive 2003/87/EC;

(a) from 1 January 2029: Annex I, point (1)(c)(vi), as regards the entry ‘Maritime transport’ in the table in Annex I to Directive 2003/87/EC;

(b) from 30 September 2029: Article 1, point (17)(d), regarding Article 10a(3b), Article 10a(3c), Article 10a(3d) of Directive 2003/87/EC as regards the five- year period for free allocation starting in 2031.

(c) from [date of application of MRV provisions related to offshore]: Article 1, point (3)(e), as regards Article 3, point (z) ‘port of call’ of Directive 2003/87/EC. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. By way of derogation from paragraph 1, Member States shall adopt and publish, by 31 December 2027 at the latest, the laws, regulations and administrative provisions necessary to comply with Article 1, points (3)(b), (12) and (17)(e) of this Directive regarding the amendment to Article 3(h) and the introduction of Article 6(4) and Article 10a(3f) of Directive 2003/87/EC. They shall apply those measures from 1 January 2028. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 4

Transitional provisions

The list contained in the Annex to Delegated Decision (EU) 2019/708 shall continue to apply until 31 December 2040.

Article 5

Entry into force and application

1. This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

2. The following articles shall apply from 30 September 2027:

(a) Article 1(15)(b)(i), and (ii) regarding the amendments to Article 10a(1a) of Directive 2003/87/EC;

(b) Article 1(15)(g) and (i) regarding the amendments to Article 10a(5b) and 10a(7) of Directive 2003/87/EC;

(c) Article 1(17) regarding the introduction of Articles 10cc, 10cd and 10ce of Directive 2003/87/EC;

(d) Article 1(25)(b) regarding the amendments inserting paragraph 1a in Article 19 of Directive 2003/87/EC;

(e) Article 1(15)(c)(i) regarding the amendment inserting a new suparagraph after Article 10a(2), second subparagraph;

3. The following articles shall apply from 1 January 2029:

(a) Article 1(14)(c) regarding the amendments to Article 10(3);

(b) Article 1(15)(c)(ii) regarding the introduction of points (f) to (i) in the third subparagraph of Article 10a(2) of Directive 2003/87/EC;

4. Article 1(15)(b)(iii) regarding the use of the allowances resulting from the reduction of free allocation, Article 1(15)(f) regarding the replacement of Article 10a(5a), Article 1(15)(j) regarding the deletion of Article 10a(8) and 10a(8a) of Directive 2003/87/EC, Article 1(17) regarding the insertion of Article 10cb of Directive 2003/87/EC, Article 1(18) regarding the amendments to Article 10d of Directive 2003/87/EC, Article 1(20) regarding the amendments to Article 10f of Directive 2003/87/EC, and Article 1(35) regarding the amendments to Annex IIb of Directive 2003/87/EC, shall apply from 1 January 2031. The Commission shall ensure that:

(c) ongoing projects approved or selected for funding under Article 10a(8) before 1 January 2031 remain eligible for disbursement in accordance with the rules in force at the time of approval;

(d) unallocated funds as of 31 December 2030 are transferred to Article 10cc.

Article 6

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	For the Council
The President	The President