**COUNCIL OF THE EUROPEAN UNION**

**Brussels, 14 March 2014 (OR. en)**

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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 12 March 2014 |
| To: | Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union |
| No. Cion doc.: | C(2014) 1539 final |
| Subject: | Commission Delegated Regulation (EU) No …/.. of 12.3.2014 establishing substantive requirements for a Union inventory system and taking into account changes in the global warming potentials and internationally agreed inventory guidelines pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council |

Delegations will find attached document C(2014) 1539 final.

Encl.: C(2014) 1539 final

EUROPEAN
COMMISSION

Brussels, 12.3.2014
C(2014) 1539 final

**COMMISSION DELEGATED REGULATION (EU) No …/..**

**of 12.3.2014**

**establishing substantive requirements for a Union inventory system and taking into account changes in the global warming potentials and internationally agreed inventory guidelines pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council**

(Text with EEA relevance)

# EXPLANATORY MEMORANDUM

## 1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC[1] sets up a Union inventory system (Article 6) and lays down the obligation for the Union and the Member States to yearly determine and report greenhouse gas inventories in accordance with reporting requirements of the United Nations Framework Convention on Climate Change (UNFCCC) (Article 7).

Article 6(2) of Regulation (EU) No 525/2013 empowers the Commission to set in a delegated act the substantive requirements for a Union inventory system in order to fulfil the obligations pursuant to Decision 19/CMP.1 of the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol on national systems for inventories.

Article 7(6) of Regulation (EU) No 525/2013 empowers the Commission to adopt Delegated acts to take account of changes in the Global Warming Potentials (GWPs) and internationally agreed inventory guidelines.

The draft Delegated Regulation transposes in EU legislation the obligations deriving from the Decisions of the Conference of the Parties to the UNFCCC in order to ensure the compliance by the Union and its Member States with the requirements deriving from the UNFCCC and the second commitment period under its Kyoto Protocol.

## 2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In order to prepare the draft Delegated Regulation, the Commission created an ad-hoc expert group composed of members nominated by the Member States. Several meetings of the expert group were held. The documents relevant to the meetings have been transmitted simultaneously to the European Parliament and the Council, as foreseen in the Common Understanding on delegated acts. The observations presented by the expert group during the meetings and sent in writing have been taken into account when preparing the final draft version of the Delegated Regulation.

## 3. LEGAL ELEMENTS OF THE DELEGATED ACT

The draft Delegated Regulation aims at ensuring the timely, transparent, accurate, consistent, comparable and complete reporting by the Union to the UNFCCC Secretariat by setting rules on the administration of the Union greenhouse gas inventory (Article 2) and the quality assurance and quality control programme implemented by the Union in order to complement the programmes implemented by the Member States (Article 3).

[1] OJ L 165, 18.6.2013, p. 13.

The draft Delegated Regulation also sets out methodologies to be used by the Commission when preparing estimates for data missing from a Member State's greenhouse gas inventory, in consultation and close cooperation with the Member State concerned (Article 4).

Timescales for cooperation and coordination during the annual reporting process and the UNFCCC review between the Member States and the Union are laid down in order to ensure the timely and effective implementation of the Union obligations under the Kyoto Protocol.

In order to ensure consistency with the implementation of monitoring and reporting requirements under the UNFCCC and the Kyoto Protocol, the draft Delegated Regulation should apply as from 1 January 2015 (Article 8).

**COMMISSION DELEGATED REGULATION (EU) No …/..**

**of 12.3.2014**

**establishing substantive requirements for a Union inventory system and taking into account changes in the global warming potentials and internationally agreed inventory guidelines pursuant to Regulation (EU) No 525/2013 of the European Parliament and of the Council**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 525/2013 of the European Parliament and of the Council of 21 May 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC[2], and in particular Article 6(2) and Article 7(6)(b) thereof,

Whereas:

(1) The mechanism for monitoring and reporting greenhouse gas emissions is necessary to enable the assessment of the actual progress towards meeting the Union's and the Member States' commitments relating to the limitation or reduction of all greenhouse gas emissions under the United Nations Framework Convention on Climate Change (UNFCCC) approved by Council Decision 94/69/EC[3], its Kyoto Protocol approved by Council Decision 2002/358/EC[4] and the set of Union legal acts, adopted in 2009, collectively referred to as the 'Climate and Energy Package'.

(2) Decision 19/CMP.1 of the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol lays down the guidelines for national systems the Parties should apply. The rules on the Union inventory system should therefore be specified in order to fulfil the obligations pursuant to that Decision, ensuring the timeliness, transparency, accuracy, consistency, comparability and completeness of reporting of greenhouse gas emissions to the UNFCCC Secretariat.

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2 OJ L 165, 18.6.2013, p. 13.

3 Council Decision 94/69/EC of 15 December 1993 concerning the conclusion of the United Nations Framework Convention on Climate Change (OJ L 33, 7.2.1994, p. 11).

4 Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder (OJ L 130, 15.5.2002, p. 1).

(3) To ensure the quality of the Union inventory system, it is necessary to establish further rules on the Union greenhouse gas inventory quality assurance and quality control programme.

(4) In order to ensure completeness of the Union's inventory in accordance with the guidelines for preparing the national greenhouse gas inventories it is necessary to provide for the methodologies and the data to be used by the Commission when, in consultation and close cooperation with the Member State concerned, preparing estimates for data missing from a Member State inventory pursuant to Article 9(2) of Regulation (EU) No 525/2013.

(5) In order to ensure the timely and effective implementation of Union's obligations under the Kyoto Protocol of the UNFCCC it is necessary to set the timescales for cooperation and coordination during the annual reporting process and the UNFCCC review between Member States and the Union.

(6) Account should be taken of changes in the global warming potential values and internationally agreed guidelines for national inventories of anthropogenic emissions by sources and removals by sinks in accordance with relevant decisions adopted by the bodies of the UNFCCC and the Kyoto Protocol.

(7) In order to ensure consistency with the implementation of monitoring and reporting requirements under the UNFCCC and the Kyoto Protocol, this Regulation should apply from 1 January 2015,

HAS ADOPTED THIS REGULATION:

*Article 1*

*Subject matter*

1. The Union greenhouse gas inventory is the sum of Member States' greenhouse gas emissions from sources and removals by sinks for the territory of the European Union in accordance with Article 52 of the Treaty on European Union and is established on the basis of the Member States' greenhouse gas inventories, as reported pursuant to Article 7 of Regulation (EU) No 525/2013, for the complete time series of inventory years.

2. This Regulation lays down rules on the requirements for a Union inventory system, further specifying rules on the preparation and administration of the Union greenhouse gas inventory including rules on cooperation with the Member States during the annual reporting process and the United Nations Framework Convention on Climate Change (UNFCCC) inventory review.

3. This Regulation also lays down rules with regard to the global warming potential values and the internationally agreed inventory guidelines to be used by the Member States and the Commission in the determination and reporting of the greenhouse gas inventory.

*Article 2*

*Union greenhouse gas inventory*

1. In preparing and administering the Union greenhouse gas inventory, the Commission shall strive to ensure:

   (a) the completeness of the Union greenhouse gas inventory by applying the procedure set out in Article 9(2) of Regulation (EU) No 525/2013;

   (b) that the Union greenhouse gas inventory provides a transparent aggregation of Member States' greenhouse gas emissions and removals by sinks and reflects in a transparent manner the contribution of Member States' emissions and removals by sinks to the Union greenhouse gas inventory;

   (c) that the total of the Union's greenhouse gas emissions and removals by sinks for a reporting year is equal to the sum of Member States' greenhouse gas emissions and removals by sinks reported pursuant to paragraphs 1 to 5 of Article 7 of Regulation (EU) No 525/2013 for that same year;

   (d) that the Union greenhouse gas inventory includes a consistent time series of emissions and removals by sinks for all reported years.

2. The Commission and the Member States shall strive to increase the comparability of Member States' greenhouse gas inventories.

*Article 3*

*Union greenhouse gas inventory quality assurance and quality control programme*

1. The Union quality assurance and quality control programme referred to in Article 6(1)(a) of Regulation (EU) No 525/2013 shall complement the quality assurance and quality control programmes implemented by the Member States.

2. Member States shall ensure the quality of activity data, emission factors and other parameters used for their national greenhouse gas inventory including by applying Articles 6 and 7.

3. Member States shall provide to the Commission and to the European Environment Agency all relevant information from their archives set up and managed in accordance with paragraph 16(a) of Annex to Decision 19/CMP.1 of the Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol, if required during the UNFCCC review of the Union greenhouse gas inventory.

*Article 4*

*Gap filling*

1. The Commission estimates for data missing from a Member State's greenhouse gas inventory as referred to in Article 9(2) of Regulation (EU) No 525/2013 shall be based on the following methodologies and data:

(a) where a Member State has submitted in the previous reporting year a consistent time series of estimates for the relevant source category that has not been subject to adjustments under Article 5(2) of the Kyoto Protocol and any of the following occurs:

(i) that Member State has submitted an approximated greenhouse gas inventory for the year X-1 pursuant to Article 8(1) of Regulation (EU) No 525/2013 that includes the missing estimate, on the data from that approximated greenhouse gas inventory;

(ii) that Member State has not submitted an approximated greenhouse gas inventory for the year X-1 under Article 8(1) of Regulation (EU) No 525/2013, but the Union has estimated approximated greenhouse gas emissions for the year X-1 for the Member States in accordance with Article 8(1) of Regulation (EU) No 525/2013, on the data from that Union approximated greenhouse gas inventory;

(iii) the use of the data from the approximated greenhouse gas inventory is not possible or may lead to a highly inaccurate estimation, for missing estimates in the energy sector, on the data obtained in accordance with Regulation (EC) No 1099/2008 of the European Parliament and of the Council[5];

(iv) the use of the data from the approximated greenhouse gas inventory is not possible or may lead to a highly inaccurate estimation, for missing estimates in non-energy sectors, on estimation based on the technical guidance on methodologies for adjustments under Article 5(2) of the Kyoto Protocol without application of the conservativeness factor defined in that guidance.

(b) where an estimate for the relevant source category was subject to adjustments under Article 5(2) of the Kyoto Protocol in previous years and the Member State concerned has not submitted a revised estimate, on the basic adjustment method used by the expert review team as set out in the technical guidance on methodologies for adjustments under Article 5(2) of the Kyoto Protocol without application of the conservativeness factor defined in that guidance;

(c) where an estimate for the relevant category was subject to technical corrections under point (c) of Article 19(3) of Regulation (EU) No 525/2013 in previous

[5] Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics (OJ L 304, 14.11.2008, p. 1).

years and the Member State concerned has not submitted a revised estimate, on the method used by the technical expert review team to calculate the technical correction;

(d) where a consistent time series of reported estimates for the relevant source category is not available and the estimate of the source category has not been subject to adjustments under Article 5(2) of the Kyoto Protocol, on the technical guidance for adjustments, without application of the conservativeness factor defined in that guidance.

2. The Commission shall prepare the estimates referred to in paragraph 1 by 31 March of the reporting year in consultation with the Member State concerned.

3. The Member State concerned shall use the estimates referred to in paragraph 1 for its national submission to the UNFCCC Secretariat of 15 April to ensure consistency between the Union greenhouse gas inventory and the Member States' greenhouse gas inventories.

*Article 5*

*Timescales for cooperation and coordination during the annual reporting process and the UNFCCC review*

1. When a Member State intends to re-submit its inventory to the UNFCCC Secretariat by 27 May, that Member State shall report the same inventory in advance to the Commission by 8 May. The information as reported to the Commission shall not differ from the submission to the UNFCCC Secretariat.

2. When a Member State intends to make any other re-submission of its inventory to the UNFCCC Secretariat after 27 May that contains information different from that already reported to the Commission, that Member State shall report such information to the Commission no later than within one week of re-submitting it to the UNFCCC Secretariat.

3. A Member State shall report the following information to the Commission:

(a) indications from an expert review team of any potential problem with the Member State's greenhouse gas inventory related to requirements of a mandatory nature and which could lead to an adjustment or a potential question of implementation (the 'Saturday paper'), within one week of receiving the information from the UNFCCC Secretariat;

(b) corrections to the estimates of greenhouse gas emissions applied in agreement between the Member State and the expert review team to the greenhouse gas inventory submission concerned during the review process as contained in the response to the indications referred to under point (a), within one week of submitting it to the UNFCCC Secretariat;

(c) the draft individual inventory review report that contains the adjusted estimates of greenhouse gas emissions or a question of implementation where the

Member State has not resolved the problem raised by the expert review team, within one week of receiving that report from the UNFCCC Secretariat;

(d) the response by the Member State to the draft individual inventory review report in case where a proposed adjustment is not accepted accompanied by a summary in which the Member State indicates whether it accepts or rejects any of the proposed adjustments, within one week of submitting the response to the UNFCCC Secretariat;

(e) the final individual inventory review report, within one week of receiving it from the UNFCCC Secretariat;

(f) any question of implementation that has been submitted to the Compliance Committee of the Kyoto Protocol, the notification by the Compliance Committee to proceed with a question of implementation, and all preliminary findings and decisions of the Compliance Committee and its branches concerning the Member State, within one week of receiving it from the UNFCCC Secretariat.

4. The services of the Commission shall provide a summary of the information referred to in paragraph 3 to all Member States.

5. The services of the Commission shall provide the Member States with the information referred to in paragraph 3 applying that paragraph *mutatis mutandis* to the Union greenhouse gas inventory.

6. Any corrections referred to in point (b) of paragraph 3 as regards the Union greenhouse gas inventory submission shall be made in cooperation with the relevant Member State.

7. Where adjustments are applied to a Member State's greenhouse gas inventory under the compliance mechanism of the Kyoto Protocol, that Member State shall coordinate with the Commission its response to the review process in relation to obligations under Regulation (EU) No 525/2013 within the following timeframes:

(a) within the timeframes provided under the Kyoto Protocol, if the adjusted estimates in a single year or the cumulative adjustments in subsequent years of the commitment period for one or more Member States would imply adjustments to the Union greenhouse gas inventory in a quantity leading to a failure to meet the methodological and reporting requirements under Article 7(1) of the Kyoto Protocol for the purpose of the eligibility requirements as set out in the guidelines adopted under Article 7 of the Kyoto Protocol;

(b) within two weeks prior to the submission of:

(i) a request for reinstatement of eligibility to the relevant bodies under the Kyoto Protocol;

(ii) a response to a decision to proceed with a question of implementation or to preliminary findings of the Compliance Committee.

8. During the UNFCCC review week of the Union inventory, Member States shall provide as soon as possible answers relating to the issues under their responsibility pursuant to Article 4(2) and (3) of this Regulation to the questions raised by the UNFCCC reviewers.

*Article 6*

*Greenhouse Gas Inventory Guidelines*

Member States and the Commission shall determine greenhouse gas inventories referred to in paragraphs 1 to 5 of Article 7 of Regulation (EU) No 525/2013 in accordance with:

(a) the 2006 Intergovernmental Panel on Climate Change (IPCC) Guidelines for National Greenhouse Gas Inventories;

(b) the IPCC 2013 Revised Supplementary Methods and Good Practice Guidance Arising from the Kyoto Protocol;

(c) the 2013 Supplement to the 2006 IPCC Guidelines for National Greenhouse Gas inventories: Wetlands for wetland drainage and rewetting listed in Article 7(1)(d) of Regulation (EU) No 525/2013;

(d) the UNFCCC guidelines for the preparation of national communications by Parties included in Annex I to the Convention, part I: UNFCCC reporting guidelines on annual inventories as set out in Decision 24/CP.19 of the Conference of the Parties to the UNFCCC;

(e) the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol as adopted by Conference of the Parties to the UNFCCC serving as the meeting of the Parties to the Kyoto Protocol.

*Article 7*

*Global Warming Potentials*

Member States and the Commission shall use the global warming potentials listed in Annex III to Decision 24/CP.19 of the Conference of the Parties to the UNFCCC for the purpose of determining and reporting greenhouse gas inventories pursuant to paragraphs 1 to 5 of Article 7 of Regulation (EU) No 525/2013 and the Union greenhouse gas inventory.

*Article 8*

*Entry into force and application*

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

It shall apply from 1 January 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12.3.2014

*For the Commission,*
*The President*
*José Manuel BARROSO*