Current Developments in Carbon & Climate Law

European Union

*Leonardo Massai and Claire-Marie Beyet**

I. Climate Finance

On 12 February 2018 the European Commission adopted the Implementing Decision (EU) 2018/210 on the adoption of the LIFE multiannual work programme (MAWP) for the period 2018-2020. The MAWP's budget for nature conservation and biodiversity is set to increase by 10% for the period of 2018-2020.

On 1 June 2018 the European Parliament and the Council adopted Proposal COM(2018)385, establishing a program for the environment and climate action (LIFE) and repealing Regulation (EU) No 1293/2013. The Commission is proposing to increase funding by almost 60% for LIFE, the EU program for the environment and climate action, with a budget of €5.45 billion between 2021 and 2027. The program is intended to act as an instrument to initiate or increase actions on sustainable production, distribution and consumption practice.

II. EU-ETS

On 14 March 2018 the European Parliament and the Council adopted Directive (EU) 2018/410 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments as well as Decision (EU) 2015/1814 on the market stability reserve. Pursuant to Article 191 TFEU, combating climate change is an explicit objective of EU environmental policy. Directive 2018/410 is amending the rules of the EU ETS Directive for the period 2021-2030. It defines a reformed system, accompanied by an instrument for market stability ('the market stability reserve') and a linear reduction factor of 2.2% in the quantity of allowances issued each year across the EU (compared to 1.74% in the previous period).

III. Greenhouse Gas Emissions

On 27 May 2018 the European Environment Agency (EEA) published the Annual European Union GHG inventory 1990-2016 and inventory report 2018 indicating a 0.4 % decrease in the total EU GHG emissions in 2016, compared with 2015. The decrease in EU GHG emissions since 1990 is due to the implementation of several climate measures, economic factors, and a significant reduction in the energy sector, in particular by increasing the use of renewable resources.

IV. LULUCF

On 30 May 2018 the European Parliament and the Council adopted Regulation (EU) 2018/841 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU. On the same day Regulation (EU) 2018/842 of the European Parliament and of the Council on binding annual greenhouse gas emission reduction by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 was also adopted.

Regulation 2018/841 requests the Member States to ensure that emissions from land use, land use change, and forestry are compensated by an equivalent removal of CO₂ from the atmosphere between 2021 and 2030. This has been called the 'non-debit rule' and will be an important part of the EU climate

DOI: 10.21552/cclr/2018/3/13

* Leonardo Massai, Lille Catholic University, France and Claire-Marie Beyet, Climalia. For Correspondence: <leonardo.massai@climalia.eu>

framework. The regulation sets out the commitments of Member States for the land use, land use change and forestry ('LULUCF') sector that contribute to achieving the objectives of the Paris Agreement and meeting the greenhouse gas emission reduction target of the Union for the period from 2021 to 2030. This regulation also lays down the rules for the accounting of emissions and removals from LULUCF. The accounting system included in the regulation is a step forward compared to what had already been set up by Decision No 529/2013 EU and the Kyoto Protocol.

Regulation 2018/842 is based on the proposal for an 'Effort sharing regulation' and lays down obligations of Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the Union's target of reducing its greenhouse gas emissions by 30 % below 2005 levels in 2030. Sectors covered by the regulation include energy, industrial processes, product use, agriculture and waste. The regulation also lays down rules on determining annual emission allocations and for the evaluation of Member States' progress towards meeting their minimum contributions. The Commission will be able to adopt implementing acts, and in case of non-compliance, request a corrective action plan, and some additional measures if necessary.

V. Energy Union

On 20 June 2018 the European Parliament, Council and European Commission reached a political agreement on the governance of the Energy Union. This common agreement aims to enable every Europeans

to access secure, affordable and climate-friendly energy, to provide a fair opportunity for consumers, and to define the EU's strategy long-term greenhouse gas reduction. This agreement is aimed at establishing a clear and transparent regulatory framework for the dialogue with civil society in Energy Union matters, in order to enhance regional cooperation, and calls for each Member State to prepare a national energy and climate plan for the period 2021 to 2030. Moreover, the agreement ensures the follow-up of the review of the progress made at Member State level to the collective achievement of the binding EU renewables target, the EU energy efficiency target and the 15% interconnection target, in order to enhance the ambition set up in the Paris Climate agreement.

VI. Transport

On 28 June 2018 the European Parliament and the Council adopted Regulation (EU) 2018/956 on the monitoring and reporting of CO₂ emissions from and fuel consumption of new heavy-duty vehicles (HDVs). New HDVs registered in the EU will have to be monitored and reported as of next year. The vehicles covered by the regulation are those falling into the categories M1, M2, N1 and N2, with a reference mass that exceeds 2 610 kg, and which are not already regulated by Regulation (EC) No 715/2007, as well as vehicles from categories M3, N3, O3, and O4. The data to be monitored are listed in the Annex I and include CO₂ emissions and fuel consumption. Data must be transferred to the Commission that will have the power to issue an administrative fine in the event data are erroneous or communicated after the deadline.