



EUROPEAN
COMMISSION

Brussels, XXX
[...] (2026) XXX draft

COMMISSION DELEGATED DECISION (EU) .../...

of XXX

on the unilateral inclusion by Sweden pursuant to Article 24 of Directive 2003/87/EC of the European Parliament and of the Council of greenhouse gases emissions from pulp, paper and cardboard installations exceeding the 95% biomass threshold set out in point 1, second sentence, of Annex I to that Directive in the system for greenhouse gas emission allowance trading within the Union

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The EU Emissions Trading System (EU ETS) is the cornerstone of European Union's climate policy and the key tool for achieving the EU's objective of reducing greenhouse gas (GHG) emissions cost-effectively.

Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC ¹ provides the overall framework applying to the EU ETS.

Article 24 of Directive 2003/87/EC allows Member States to apply for a unilateral extension of the scope of application of the EU ETS to activities and to greenhouse gases which are not listed in Annex I to that Directive. Such unilateral extension of scope is to be approved by the Commission by means of a delegated act.

Sweden formally notified on 16 July 2026 the Commission of its application for a unilateral extension of the scope of application of the EU ETS to greenhouse gases emissions resulting from the activities of pulp, paper and cardboard installations where, during the preceding relevant five-year period referred to in Article 11(1), second subparagraph, of Directive 2003/87/EC, emissions from the combustion of biomass that complies with the criteria set out pursuant to Article 14 contribute on average to more than 95% of the total average greenhouse gas emissions.

Such installations were excluded from the EU ETS from 1 January 2026 onwards pursuant to Annex I, point 1, last sentence of Directive 2003/87/EC as amended by Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system ².

Limited additional administrative and adjustment costs are anticipated as a result of the above-described unilateral extension of scope of the EU ETS by Sweden. Installations concerned were indeed already covered by the EU ETS until the end of the year 2025. Additional administrative and adjustment costs will result from the requesting and delivering of a new greenhouse gas permit by the Swedish competent authority, and from monitoring, reporting and verifying emissions in accordance with Articles 14 and 15 of Directive 2003/87/EC. Since those installations were previously under the EU ETS, the monitoring plan can largely rely on the previously established monitoring and reporting methodology, in application until the end of 2025.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission consulted the members of the Commission Expert Group on Climate Change Policy (CCEG) on free allocation rules on the proposed draft delegated decision approving the unilateral extension of scope of the EU ETS on 9 September 2026. The CCEG

¹ OJ L 275, 25/10/2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/2024-03-01>.

² Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system, OJ L 130, 16.5.2023, pp. 134–202, ELI: <http://data.europa.eu/eli/dir/2023/959/oj>.

is composed of Member States, industry associations and other stakeholders, including representatives of the civil society. Prior to the meeting, the CCEG members were sent the draft of the suggested Commission decision approving the unilateral extension of scope of the EU ETS in Sweden to greenhouse gas emissions from pulp, paper and cardboard installations otherwise excluded pursuant to Annex I, point 1, last sentence of Directive 2003/87/EC. amendments to the legal act. [An updated version of the draft was provided after the Commission interservice consultation. Contributions and comments on the concept notes and the suggested amendments to the legal act were received from members of the CCEG at the different stages of the process].

Most CCEG members provided no comment on the act approving this unilateral extension of scope of the EU ETS by Sweden. Only one Member State provided a general comment questioning whether Article 24 of the ETS Directive was the appropriate legal basis for such an extension and raising concerns regarding level-playing field should the installations concerned receive free allocation. The Commission clarified no free allocation will indeed be received and deemed Article 24 of the ETS Directive provided the necessary legal basis.

The documents relevant to the meetings, including the drafts of the Commission decision approving the unilateral extension of scope of the EU ETS by Sweden, were transmitted simultaneously to the European Parliament and the Council, as provided for in the Common Understanding on Delegated Acts annexed to the Interinstitutional Agreement on Better Law Making³.

The draft delegated decision was published on the Better Regulation portal for a four-week feedback period from [xx xx 2026 until xx xx 2026]. [Number] contributions were received, [number] from business associations and [number] from companies/businesses. [Brief summary / overview of the elements of feedback received]. Xxx, therefore the Commission maintained the text of the Delegated Decision.]

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Commission Delegated Decision constitutes the approval by the Commission, pursuant to Article 24(1) of Directive 2003/87/EC, of the application by Sweden for a unilateral extension of scope of application of the EU ETS to greenhouse gases emissions resulting from the activities of pulp, paper and cardboard installations otherwise excluded from the EU ETS in accordance with Annex I, point 1, last sentence to Directive 2003/87/EC.

The following conditions frame the approval of this unilateral extension of scope by the Commission:

- Installations listed in Annex to this decision enter the scope of the EU ETS starting on 1 January 2027. Installations in the pulp, paper and cardboard installations exceeding the 95% biomass threshold of Annex I, point 1, last sentence to Directive (EU) 2003/87/EC based on the subsequent baseline periods will also be included in the EU ETS starting on 1 January of the relevant calendar year.
- Installations entering the scope of the EU ETS as a result of the extension will not receive free allocation, in line with the application submitted by Sweden and the intent of the co-legislators to avoid “situations where installations combusting a high share of biomass have obtained windfall profits by receiving free allowances greatly

³ Interinstitutional Agreement Between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p.1).

exceeding actual emissions” when excluding such installations from the EU ETS in Directive (EU) 2023/959⁴.

- Monitoring and reporting obligations resulting from the unilateral extension of scope to the installations listed in Annex to this Decision will start applying from 1 January 2027 onwards, in line with the start of the annual monitoring and reporting cycle in the EU ETS referred to in Article 14(3) of Directive 2003/87/EC and in view of ensuring the installations concerned are included in the scope of the EU ETS as swiftly as possible.

⁴ See recital 70 of Directive (EU) 2023/959.

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on the unilateral inclusion by Sweden pursuant to Article 24 of Directive 2003/87/EC of the European Parliament and of the Council of greenhouse gases emissions from pulp, paper and cardboard installations exceeding the 95% biomass threshold set out in point 1, second sentence, of Annex I to that Directive in the system for greenhouse gas emission allowance trading within the Union

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC ¹, and in particular Article 24(1) thereof,

Whereas:

- (1) Article 24(1) of Directive 2003/87/EC provides Member States with the possibility to apply for approval by the Commission of the unilateral inclusion in the system for greenhouse gas emission allowance trading within the Union ('EU ETS') of activities and greenhouse gases which are not listed in Annex I to Directive 2003/87/EC.
- (2) When availing themselves of this possibility, Member States are to take into account in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the EU ETS and the reliability of the planned monitoring and reporting system.
- (3) On 16 July 2026, Sweden notified a request for the unilateral inclusion in the EU ETS of the emissions of greenhouse gases listed in Annex II to Directive 2003/87/EC from installations producing pulp, paper or cardboard that exceed the 95% biomass threshold set out in point 1, second sentence, of Annex I to Directive 2003/87/EC.
- (4) Such installations were excluded from the scope of the EU ETS as a result of the review by Directive (EU) 2023/959 of the European Parliament and of the Council ², that aimed at addressing situations in which installations received free allowances greatly exceeding their actual emissions ³. In Sweden, based on emissions reported and verified up to 2024, 176 installations, accounting for approximately 421 000 tonnes of carbon dioxide equivalent in 2024, therefore fall outside the scope of the EU ETS from 1 January 2026.
- (5) The Swedish authorities explained that their request is limited to the inclusion in the EU ETS of greenhouse gases emissions from installations producing pulp, paper or cardboard that exceed the 95% biomass threshold set out in point 1, second sentence,

¹ OJ L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/oj>.

² Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (OJ L 130, 16.5.2023, p. 134, ELI: <http://data.europa.eu/eli/dir/2023/959/oj>).

³ See recital 70 of Directive (EU) 2023/959.

of Annex I to Directive 2003/87/EC, as those installations account for most of the greenhouse gas emissions from installations in Sweden exceeding that threshold. The Swedish authorities further explained that many of the remaining installations are smaller heat or energy production facilities with relatively low fossil fuel emissions and that the administrative burden associated with the inclusion in the EU ETS of greenhouse gases emissions from those installations would outweigh the benefits for climate policy. The Swedish authorities indicated that the greenhouse gases emissions of those installations are, however, subject to carbon pricing under national taxation and through the emissions trading system for buildings, road transport and additional sectors ('EU ETS 2') established under Chapter IVa of Directive 2003/87/EC as concerns the release of fuels for consumption as regulated entity under the EU ETS 2.

- (6) Sweden's application for the unilateral inclusion in the EU ETS covers the greenhouse gases emissions from the 26 installations producing pulp, paper or cardboard listed in the Annex to this Decision, accounting, according to the data provided by Sweden, for approximately 339 000 tonnes of carbon dioxide equivalent emissions in 2024. Greenhouse gases emissions from installations exceeding the 95% biomass threshold set out in point 1, second sentence, of Annex II, point 1 to Directive 2003/87/EC in future years should also be covered by this unilateral inclusion in the EU ETS.
- (7) In the Commission's assessment, the inclusion in the EU ETS of greenhouse gases emissions from installations producing pulp, paper or cardboard that, as a result of significant investments in their production processes to reduce emissions of fossil fuel origin, exceed the 95% biomass threshold set out in point 1, second sentence, of Annex I to Directive 2003/87/EC, as requested by Sweden, would provide environmental benefits, provided that those installations do not receive free allocation. Such inclusion would ensure the continued monitoring, reporting, verification and pricing of greenhouse gases emissions from those installations under the EU ETS. The Commission considers, in line with the application submitted by Sweden, that it is essential that those installations do not receive free allocation in order to comply with the intent of the co-legislators, as set out in recital 70 of Directive (EU) 2023/959, when introducing the 95% biomass threshold, to avoid situations in which installations combusting a high share of biomass obtain windfall profits by receiving free allowances greatly exceeding their actual emissions. The exclusion from free allocation of installations whose greenhouse gases emissions are included in the EU ETS by means of this Decision is therefore necessary to ensure the environmental integrity of the EU ETS.
- (8) The option provided for in Article 24(2) of Directive 2003/87/EC to authorise the issue of additional allowances in connection with the approval of the unilateral inclusion of additional activities and greenhouse gases in the EU ETS should not be used.
- (9) Since the concerned installations producing pulp, paper or cardboard were covered by the EU ETS until 31 December 2025 and their operators had the necessary monitoring and reporting arrangements in place until that date, the Commission considers the monitoring and reporting system planned by Sweden in the context of its application for unilateral inclusion to be reliable and in accordance with Articles 14 and 15 of Directive 2003/87/EC and with Commission Implementing Regulation (EU) 2018/2066⁴.

⁴ Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament

- (10) In view of the above, the inclusion in the EU ETS of greenhouse gases emissions from the 26 installations producing pulp, paper or cardboard listed in the Annex to this Decision should be approved, subject to the conditions laid down in this Decision. The approval should also cover, subject to the same conditions, greenhouse gases emissions from installations producing pulp, paper or cardboard in Sweden that, in future years, exceed the 95% biomass threshold set out in point 1, second sentence, of Annex I to Directive 2003/87/EC during the baseline period for the subsequent five-year periods for free allocation referred to in Article 11(1), second subparagraph, of that Directive.
- (11) In order to align the inclusion with the start of the monitoring and reporting obligation for each calendar year pursuant to Article 14(3) of Directive 2003/87/EC, to ensure that a full year of reporting is available and to include the greenhouse gases emissions from the installations concerned in the EU ETS as swiftly as possible, this Decision should apply from 1 January 2027,

HAS ADOPTED THIS DECISION:

Article 1

Unilateral inclusion in the EU ETS

1. The unilateral inclusion in the system for greenhouse gas emission allowance trading within the Union ('EU ETS') of the emissions of greenhouse gases listed in Annex II to Directive 2003/87/EC from installations producing pulp, paper or cardboard in Sweden that are otherwise excluded from the scope of Directive 2003/87/EC pursuant to point 1, second sentence, of Annex I to that Directive for exceeding the 95% biomass threshold set out in that sentence, is approved, subject to the conditions laid down in paragraphs 2 and 3 and Articles 2 and 3 of this Decision.
2. Greenhouse gases emissions from the installations listed in the Annex to this Decision shall be included in the EU ETS from 1 January 2027.
3. Greenhouse gases emissions from installations producing pulp, paper or cardboard in Sweden that, in future years, are otherwise excluded from the scope of Directive 2003/87/EC pursuant to point 1, second sentence, of Annex I to that Directive for exceeding the 95% biomass threshold set out in that sentence shall be included in the EU ETS from 1 January of the calendar year following the five-year period where that threshold was exceeded.

Article 2

Installations the greenhouse gases emissions from which are included in the EU ETS pursuant to the Article 1, including those listed in the Annex to this Decision, shall not receive free allocation.

and of the Council and amending Commission Regulation (EU) No 601/2012 ((OJ L 334, 31.12.2018, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2018/2066/oj).

Article 3

Monitoring and reporting obligations

1. Sweden shall ensure that each operator of an installation listed in the Annex to this Decision monitors and reports to the competent authority, in accordance with Articles 14 and 15 of Directive 2003/87/EC and Commission Implementing Regulation (EU) 2018/2066, the emissions from that installation during each calendar year from 1 January 2027.
2. Sweden shall ensure that each operator of an installation the greenhouse gases emissions from which are included in the EU ETS pursuant to Article 1(3), monitors and reports to the competent authority, in accordance with Articles 14 and 15 of Directive 2003/87/EC and Implementing Regulation (EU) 2018/2066, the emissions from that installation as from 1 January of the relevant calendar year referred to in Article 1(3).

Article 4

Entry into force and application

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2027.

Done at Brussels,

For the Commission

The President

Ursula VON DER LEYEN