Council of the European Union

Brussels, 20 September 2021
(OR. en)

11840/21

Interinstitutional Files:
2021/0211(COD)
2021/0200(COD)
2021/0201(COD)
2021/0197(COD)
2021/0206(COD)

ENV 636
CLIMA 242
ENER 380
TRANS 553
ECOFIN 845
AGRI 422
FORETS 45
MI 672
CODEC 1230

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Fit for 55 package a) Revision of Directive (EU) 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading to implement the ambition of the new 2030 climate target and related proposals b) Revision of Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement c) Revision of 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 d) Revision of Regulation (EU) 2019/631 setting CO_2 emission performance standards for new passenger cars and for new light commercial vehicles e) Regulation establishing a Social Climate Fund – Exchange of views

With a view to the exchange of views at the meeting of the Council (Environment) on 6 October 2021, delegations will find attached a background note and questions prepared by the Presidency to help structure the discussion.

The Permanent Representatives Committee is invited to take note of the background note and questions, as set out in the Annex to this note, and to forward them to the Council with a view to the exchange of views.

ANNEX

- Fit for 55 package -
Background note for the exchange of views
at the Council (Environment) on 6 October 2021

INTRODUCTION

On 14 July 2021, the European Commission submitted the so-called ‘Fit for 55’ package of legislative proposals, which aims to align the EU’s climate and energy policy framework with its new ambitious climate target for 2030 of reducing net greenhouse gas emissions (GHG) by at least 55% and to put it on track to reach its objective of becoming climate neutral by 2050. The package consists of a series of closely interconnected proposals either amending existing pieces of legislation or establishing new initiatives across a range of policy areas and economic sectors including climate, energy, transport, buildings, land use and forestry. In addition, a number of energy-related proposals are expected to be presented towards the end of 2021. Most proposals contain direct or indirect links to other parts of the package and are aimed at mutually reinforcing each other.

Together, the proposals aim to enable the EU to reach its targets in a fair, cost-efficient and competitive way and contribute to a green and just transition of the EU economy in line with the objectives of the European Green Deal. The revision of its climate and energy legislative framework should also enable the EU to deliver on its international commitments under the Paris Agreement, in particular its updated Nationally Determined Contribution in line with the increased ambition for 2030. The Commission’s proposals also aim to contribute to the post-Covid recovery of the European economy and the long-term resilience of the European Union.

Within the Council, the proposals will be dealt with in four Council formations: Environment, Energy, Transport, and Economic and Financial Affairs. The five climate-related initiatives dealt with under the remit of the Environment Council are at the core of the 'Fit for 55' package, with the increased ambition of the EU Emissions Trading System (ETS) as a main driver together with increased national targets in the Effort Sharing Regulation (ESR) and measures to increase natural sinks through the Regulation on Land use, land-use change and forestry (LULUCF). The proposed tightened CO_2 standards for cars and vans aim at helping Member States to reach their increased national targets while stimulating technological innovation in the sector. The proposed new Social Climate Fund (SCF) aims to address the socio-economic impacts of the proposed new emissions trading system for buildings and road transport.

Discussions on these initiatives and accompanying impact assessments have recently started at technical level. Delegations are still studying the proposals and have so far only expressed their general or preliminary comments. An overview of the initiatives is set out below.

MAIN ELEMENTS OF THE PROPOSALS

EU Emissions Trading System (ETS) reform[1]

The Commission proposes a comprehensive set of changes to the **existing ETS** that should result in an overall emission reduction in sectors under the ETS of 61% by 2030 compared to 2005, from the current objective of 43%. The increased ambition is to be achieved through extending the scope of the ETS and strengthening its current provisions.

[1] The ETS reform consists of three proposals: two proposals to amend the ETS Directive (one of these proposals also amends the MRV Shipping Regulation and the Market Stability Reserve Decision) and a separate proposal to amend the Market Stability Reserve Decision.

So far, the **maritime sector** has not been subject to binding measures to reduce GHG emissions. The Commission proposes to include emissions from the maritime sector in the ETS with a phase-in period from 2023 to 2026. This will cover all emissions from intra-EU voyages and 50% of extra-EU voyages[2].

The key element in **strengthening the ambition of the ETS** is the proposal to increase the Linear Reduction Factor from 2,2% to 4,2% per year bringing about a steeper trajectory for reducing the number of emission allowances in the system. In addition, there will be a one-off reduction of the cap on the total number of allowances while adding allowances to take into account the extension of the system to the maritime sector.

The current provisions on **carbon leakage (free allocations)** will overall continue to apply with certain adjustments. However, for those sectors where the new Carbon Border Adjustment Mechanism (CBAM) is proposed to apply, the free allocation will be gradually phased out until 2035 mirroring the gradual phase-in of the levy to be imposed by the CBAM on imports as from 2026 onwards. Sectors to be covered by the CBAM are iron and steel, cement, fertilisers, aluminium and electricity.

Free allocations for **aviation** will be phased out with full auctioning applying from 2027. The increased Linear Reduction Factor will also apply to aviation. The ETS should continue to apply to intra-European flights (including to UK and CH) while it is proposed that the global market-based scheme, CORSIA, apply to EU operators for extra-European flights to and from third countries participating in CORSIA.

[2] The coverage of extra-EU voyages is not proposed to count towards meeting the -55% target.

In order to support this increased ambition, both the **Modernisation Fund and the Innovation Fund** are strengthened in volume, notably through an additional 2,5% allocation to the Modernisation Fund to be distributed between 12 Member States with a GDP per capita below 65% of the EU average, and by creating new sources of funding for the Innovation Fund. The rules on spending money from the funds are adjusted, inter alia in line with the changes to the ETS and the policy objectives of the Green Deal. In addition, it is proposed that all Member States' revenues from auctioning will be subject to compulsory **earmarking** for climate related purposes.

The Commission proposes to apply carbon pricing at EU level on fossil fuels for **buildings and road transport** in addition to the measures undertaken under the Effort Sharing Regulation in order to achieve the necessary emissions reductions for those sectors in line with the overall -55% target for 2030. A **new self-standing emissions trading system** for buildings and road transport should be established as from 2025 with compliance obligations from 2026 aimed at achieving emissions reductions of 43% for these sectors by 2030 compared to 2005. The emissions reductions achieved under this new emissions trading system will count towards Member States meeting their national targets under the Effort Sharing Regulation. The setting of the cap (total amount of allowances) will initially be based on data collected under the Effort Sharing Regulation with an initial Linear Reduction Factor set at 5,15%. No system of free allocation is foreseen. All auction revenues are to be used for climate and energy related purposes and 25% of the revenues will be dedicated to the Social Climate Fund.

In order to continue to ensure a stable and well-functioning ETS, the **Market Stability Reserve** is proposed to be revised, including with new provisions related to the new self-standing emissions trading system. A separate proposal aims at maintaining the intake rate at 24% of the total number of allowances in circulation until 2030.

Effort Sharing Regulation (ESR)

The proposal aims to amend the 2018 Effort Sharing Regulation in order to align it with the EU's new greenhouse gas emission reduction target for 2030. The ESR establishes binding annual GHG targets for Member States in sectors that are not covered by the ETS Directive or the LULUCF Regulation. The **scope of the ESR remains unchanged** although the proposed revision of the ETS Directive extends emissions trading to road transport and buildings, which would cover around half of the emissions regulated by ESR.

The main changes to the current ESR concern targets and flexibilities. The overall emission reduction target for the sectors covered for EU-27 **increases from 29% to 40% by 2030** compared to 2005. Consequently, the Member States' contributions to the overall target are also increased, **ranging from 10% to 50%** below 2005 levels. The calculation method remains based on **GDP per capita,** with the application of a limited amount of **targeted corrections** to address cost efficiency concerns as well the specific circumstances of a number of Member States. Moreover, the maximum target increase for a single Member State is 12 percentage points. As to the annual emission limits of each Member State, three different regimes apply: no change to the current Regulation in 2021-2022; adjustment of the trajectory to the new reduction target of 40% for the period 2023-2025; and a second recalculation of the trajectory for the period 2026-2030 using updated emission data.

The Commission proposes certain changes to the existing **flexibilities**, in particular to split the LULUCF flexibility into two five-year periods with Member States being able to use half of their total currently available flexibility during each of the two periods. In addition, the Commission proposes to establish a new **additional reserve** through the transfer of any unused LULUCF credits after 2030 to Member States in need to help them comply with their individual targets under the ESR. Specific conditions apply to the use of the reserve, which itself would only become operational if the EU's -55% target is achieved respecting the limit for the contribution of net removals set in the European Climate Law.

Regulation on Land use, Land-use change and Forestry (LULUCF)

The objectives of the revision of the existing Regulation are to set simpler, more transparent and effective compliance rules and targets, to increase removals of greenhouse gases within the EU to at least 310 million tonnes CO_2 equivalent by 2030, and to set an objective of a climate-neutral EU land sector by 2035.

Until 2025, the rules of the current LULUCF Regulation remain largely unchanged, most notably the so-called ‘no-debit’ rule and accounting principles. In contrast, **from 2026 to 2030, several significant changes** are proposed: The target of **increasing removals to 310 Mt CO_2 equivalent within the EU by 2030** is distributed among Member States as **national targets** reflecting each Member State’s current mitigation performance in the LULUCF sector and share of the managed land area in the EU. The scope of the target is extended to all land reporting categories and compliance is based on reported, instead of accounted, emissions and removals in greenhouse gas inventories. The proposed process includes the definition of a linear trajectory leading to the overall EU target in 2030, with annual sub-targets determined for each Member State through implementing acts.

The provisions of the proposal extend also to the **period beyond 2031**: From 2031 onwards, the scope of the Regulation would be expanded to **include non-CO_2 emissions from the agriculture sector**, thus covering the entire land sector with one policy instrument with a view to promoting synergies between land-based mitigation actions. The proposal also sets out the aim of **climate neutrality in the combined sector by 2035,** which will require a significant increase in carbon removals to balance remaining agricultural emissions. The Commission intends to propose individual Member State targets and EU-wide measures for the post-2030 period at a later stage, subject to an impact assessment and a new legislative proposal.

Regulation on CO_2 standards for cars and vans

The contribution from CO_2 standards for cars and vans to the increased EU climate ambition consists mainly of **increased EU-wide reduction targets** for 2030 and the setting of a new target of 100% for 2035, de facto entailing that no cars or vans with an internal combustion engine will be put on the market in the EU from 2035. The proposed 2030 targets continue the differentiation between cars and vans: the target for cars will be increased from 37,5% to 55% and the target for vans from 31% to 50%.

In addition, the so-called **Zero-and Low-Emission Vehicle incentives scheme** will end in 2029 and thus cannot be used by manufacturers to help them achieve their specific emission reductions target as of 2030.

Regulation establishing a Social Climate Fund (SCF)

In order to address **the socio-economic impacts of the proposed emission trading system for buildings and road transport**, the Commission proposes to establish the Social Climate Fund. Based on Social Climate Plans to be developed by the Member States, the Fund aims to provide **support measures and investments** to benefit vulnerable households, micro-enterprises or transport users, and increase the energy efficiency of buildings, decarbonisation of heating and cooling of buildings, integration of energy from renewable sources, as well as access to zero and low-emission mobility and transport. The Fund can also cover **temporary direct income support**.

The proposal allocates a total of **EUR 72.2 billion** to the Fund over the 2025-2032 period, through an allocation methodology that aims at tackling the uneven impact of the proposed ETS extension expected across and within Member States. Member States should finance at least 50% of the total costs of the Social Climate Plans themselves using revenue from the auctioning of allowances under the new system.

The establishment of the Fund will require an **amendment to the 2021-2027 Multiannual Financial Framework as well as to the Own Resources Decision.**

QUESTIONS FOR THE MINISTERS

Against this background, Ministers are invited to hold an exchange of views at the Council (Environment) on 6 October 2021 based on the following two questions:

- *Taking into account that the five climate-related initiatives referred to above form part of the overall 'Fit for 55' package and are closely interlinked, do these initiatives represent a balanced policy mix that ensures the delivery of the required emissions reductions in a cost-effective manner as well as a fair burden sharing between economic sectors, Member States and citizens?*

- *More specifically, do these initiatives, including the proposed new emissions trading system for road transport and buildings, provide the appropriate synergies and incentives for achieving the required ambition both at EU level and at national level? In this regard, how do you assess the contribution of individual proposals towards reaching the increased ambition as enshrined in the European Climate Law?*