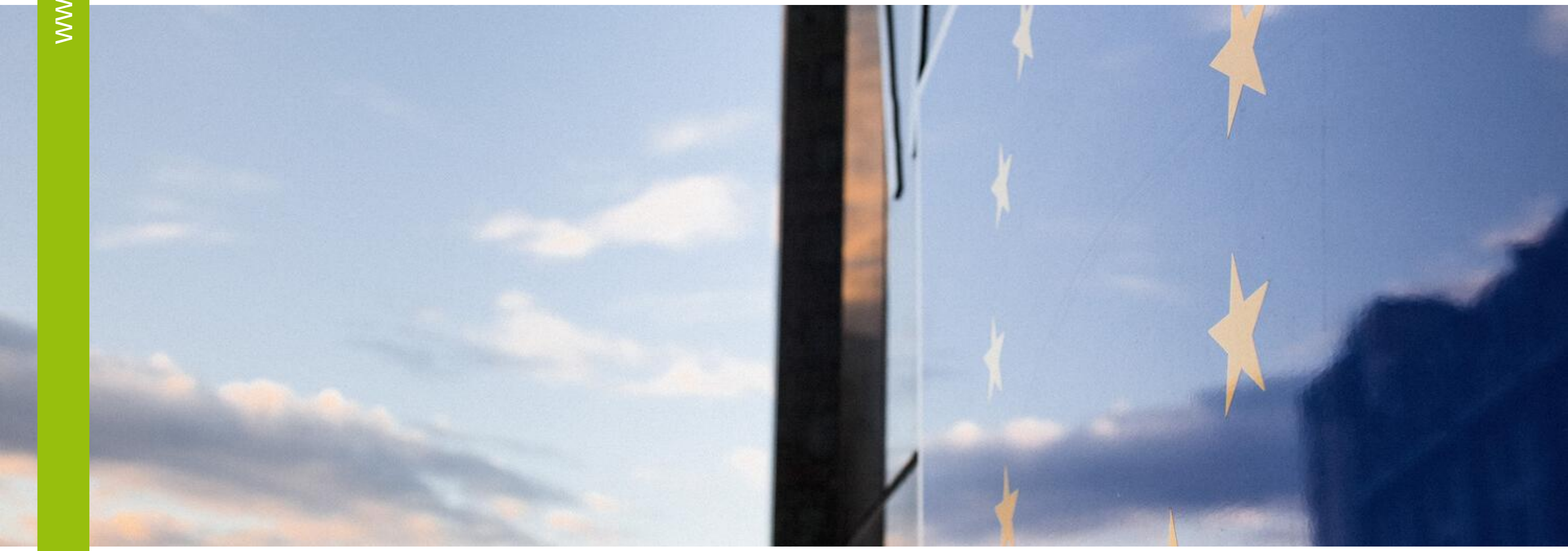

The EU’s 2040 climate target

Assessment of the proposal by the European Council

// Jakob Graichen, Sabine Gores, H. Böttcher, K. Schumacher, P. Kasten, L. Schneider

On 5 November Member States agreed their position on the 2040 climate target in the Environment Council.[1] This policy brief analyses this outcome and builds upon our Policy Brief The proposed 2040 climate target for the EU (Oeko-Institut 2025) which assessed the proposal by the European Commission[2]. Issues which remain unchanged are not discussed here again.

Key findings

- The Council supports the ‘binding Union target’ of 90% below 1990 but with up to 5 % international carbon credits in the year 2040 increasing net domestic emissions by 50%.
- The total amount of international carbon credits in the EU would increase net emissions by 20% to 30% compared to a purely domestic target in the period 2036 to 2050.
- The Council is looking at an inclusions of Article 6 credits in post 2030 national targets as part of 5 % limit. Almost one quarter of these credits might be used for that purpose.
- The Council promotes an unbalanced inclusion of LULUCF net emissions into the target. It would lead to higher emissions in other sectors in the case of surpluses but no compensation if in case of a shortfall of natural removals.
- The Council’s proposal does not ensure an achievement of an accounted net reduction of 90 %. On the contrary, it foresees procedures to weaken the ambition if needed.
- Delaying EU ETS 2 will lead to higher price pressure in 2028. Member States will forgo approx. €50 billion in auction revenues in 2027.
- The overall climate ambition of the EU still depends on the legislative proposals to implement the 2040 target through policies and measures.

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1 https://data.consilium.europa.eu/doc/document/ST-14960-2025-INIT/en/pdf
2 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1119

Main target

The European Climate Law sets greenhouse gas emission targets for 2050 in Article 2 and for 2030 in Article 4(1). The legislative proposals replace Article 4(3) to 4(5) with the 2040 target and considerations for the subsequent legislative package to implement the new target.

Terminology

We use the following definitions in this document:

- **Domestic net emissions**: The emissions of greenhouse gases after deducting carbon dioxide removals, i.e. the increase of GHG in the atmosphere.
- **Accounted net emissions**: These are the remaining calculated emissions based on the net domestic emissions and the usage of international credits under Article 6 of the Paris Agreement. This is the scope of the 90% headline target.
- **Gross emissions**: The release of GHG into the atmosphere without deducting carbon dioxide removals, i.e. the quantity of GHG emitted.
- **GHG generation**: This includes emissions that are captured at the source and stored geologically, i.e. never enter the atmosphere.

The legislative proposals by the Council and the Commission include the usage of international credits in the term “net emissions”.

What is the 2040 target proposed by the Council?

The Council affirms the ambition of an accounted net target of 90% below 1990 emissions proposed by the Commission. The main change in the level of ambition is the maximum quantity of international credits under Article 6 of the Paris Agreement: Member States plan to raise the maximum usage from 3% to 5% of 1990 net emissions. The domestic net target is therefore a reduction of 85% compared to 1990. The 2030 target and the 2050 target are not changed and remain as they are. The target scope, i.e. which emissions are covered, is in line with the other targets. That means that emissions from international aviation and shipping are included in the target to the extent that they are covered by the EU Emission Trading System (EU ETS). Importantly, the target of achieving climate neutrality by 2050 at the latest specifically excludes international carbon credits, i.e. they can only be used for a limited time.

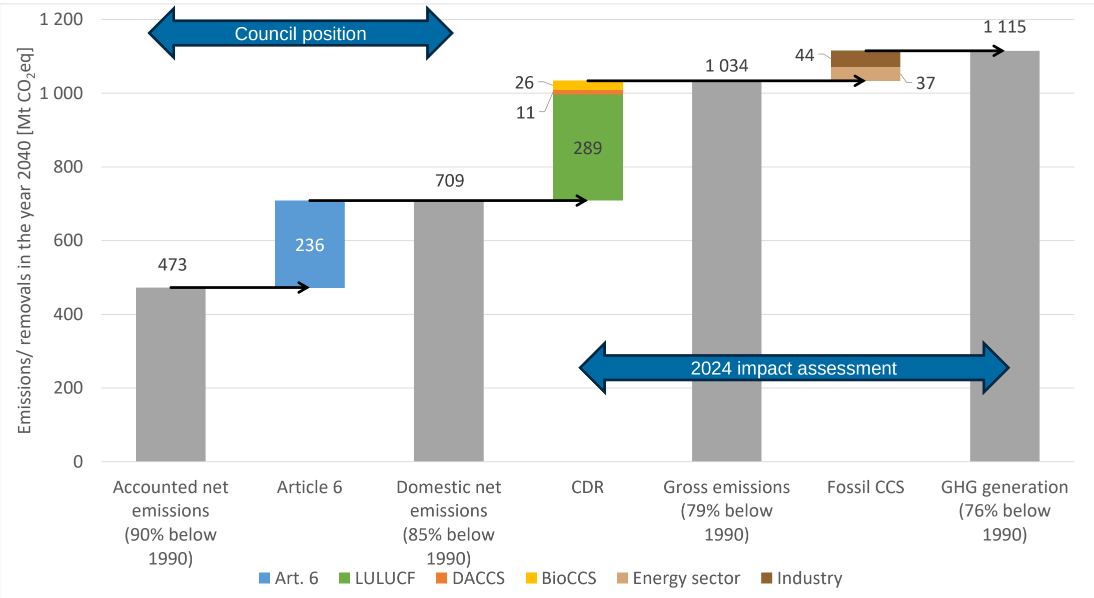
In Figure 1, we show the relationship between the 2040 accounted net target including the usage of international carbon credits, and domestic net emissions based on the Council position. In addition, we show the potential magnitude of gross emissions and GHG generation. The latter two are calculated based on the recommendation for the 2040 target by the outgoing first Commission under Ursula von der Leyen (EC 2024). We used the results for the scenarios S1 and S2 which achieve a domestic net target of 78% below and 88% respectively to estimate natural and industrial carbon dioxide removals (CDR) and CCS.

Compared to the Commission's proposal, the Council 2040 target position

- Leaves the accounted net emissions unchanged (473 Mt CO_2e),[3]
- Increases the usage of international credits to 5% (236 million, up from 142 million), and
- Increases domestic net emissions to 85% (709 Mt CO_2e, up from 614 Mt CO_2e).

With the additional use of international carbon credits to achieve a 90 % reduction target, resulting domestic net emissions in 2040 are 50% higher than the accounted net target. In the Commission proposal, the increase was only 30 %. Gross emissions, i.e. emissions without removals, would only be 79% below 1990 levels; this is almost unchanged compared to the Commission proposal (80% below 1990). The reason for this is that less CDR is part of the cost-effective modelling in the Impact Assessment for the 2040 target proposal with lower domestic net targets. With less CDR, the amount of gross emissions which can be counterbalanced is lower than in the Commission's proposal. Specifically, industrial removals (BioCCS, DACCS) of only 36 Mt CO_2 instead of 62 Mt CO_2 will be required. The reliance on natural removals in the land-use sector also reduces from 317 Mt CO_2e to 289 Mt CO_2e. Generated greenhouse gases are almost unaffected; this is due to much lower CCS volumes from industry.

Figure 1: The 90% target and greenhouse gas emissions in 2040 in the Council position



Notes: The quantity of CDRs and fossil CCS is taken from the 2024 impact assessment, calculated as a mix of the S1 and S2 scenarios which results in a net domestic reduction of 85 %.
Source: Oeko-Institut

[3] This figure is based on the updated GHG inventory of the EU and slightly higher than the value in our assessment of the Commission's proposal (Oeko-Institut (2025)). These differences are due to methodological improvements of the GHG inventory and not linked to ambition levels. We have updated our calculations for this brief to ensure consistency between the evaluations of the proposals by the Commission and the Council.

What are the changes to Article 11 of the ECL?

Article 11 of the European Climate Law governs the review of the ECL. Every five years the Commission shall submit a report *'on the operation'* of the ECL. The Council is extending the review substantially by adding the provision that the report *'shall be accompanied, where appropriate, by legislative proposals to revise this Regulation, including the intermediate 2040 target*.*'* In addition, if natural removals are insufficient to achieve the net accounted target, '*the Commission shall propose, where appropriate, measures at Union level, including if necessary an adjustment of the 2040 intermediate target'*. Any shortfall of natural removals shall *'not be at the expense of other economic sectors'.* Both provisions open the door to lower ambition if emission reductions or natural removals do not deliver as assumed. There is a certain risk that this will become a self-fulfilling prophecy – governments already have a way out and might be less inclined to adopt sufficiently stringent policies and measures to achieve the 2040 target.

What are the other main changes in the Council position?

The Council made numerous changes to the recitals and the legislative proposal itself. The main new issues which we discuss in the following are:

- Usage of international carbon credits through Article 6;
- Rules for the land-use sector; and
- Postponement of the ETS2 by one year

International carbon credits under Article 6 of the Paris Agreement

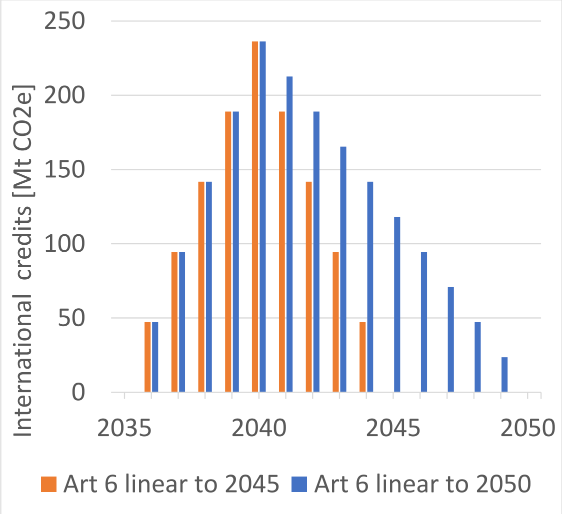
The Council position increases the total quantity of international carbon credits and introduces a pilot phase and looks at their usage for national targets. The discussion about the environment integrity risks, the need for domestic emission reductions and unclear cost savings from our assessment of the Commission proposal (Oeko-Institut 2025) are all applicable to the Council position but not repeated here again.

How many international carbon credits may be used?

The Council calls for a contribution from credits under Article 6 of the Paris Agreement of *'up to 5%'* of 1990 net emissions, *'corresponding to a domestic reduction of net greenhouse gas emissions by 85%'*. In the Commission proposal there was some uncertainty whether the 3% was the limit for the usage in the year 2040 or the total quantity over the period 2036-2040. The Council is clearly aiming for a domestic net reduction of 85%, i.e. the Article 6 usage of up to 5% is meant for the year 2040 and not the cumulated quantity over the five-year period.

Under the Paris Agreement, any usage of Article 6 is accounted against the entire NDC period 2036 to 2040. Following the linear accounting approach the limit proposed by the Council increases the net emissions in the EU compared to a 90% domestic target pathway by

- 50% in 2040 (236 Mt CO_2e)
- 18% in period 2036 to 2040 (709 Mt CO_2e)
- 6% in the period 2031 to 2040 (709 Mt CO_2e)



Neither the Commission nor the Council proposal include any text on the period after 2040. In theory, three different options are possible:

- No usage of Article 6 after 2040. This would mean that the target path from 2041 to 2050 would start at a higher level than the accounted net target of 90% in 2040. Total usage of international credits would be 12% in the period 2036 to 2050 compared to a purely domestic 90% target pathway.
- Linear decline during until the subsequent NDC for 2045 (orange bars): 20% additional domestic net emissions 2036 to 2050 (1 181 Mt CO_2e)
- Linear decline until the domestic climate neutrality target in 2050 (blue bars): 30% additional domestic net emission 2036 to 2050 (1 772 Mt CO_2e)

As the target of achieving climate neutrality by 2050 is domestic, the use of international carbon credits would need to end in 2049 at the latest. Based on currently available information, this could make the EU one of the largest buyers of international carbon credits. The uncertainty about the demand for international credits post-2040 by the EU might negatively affect supply: project developers will hesitate to invest if there is only clear demand for 5 years whereas most projects have a much longer duration. Especially *'high-quality international credits'* will require higher investments which will be hard to recuperate in the years 2036 to 2040 only.

Will the entire Article 6 budget be used?

In Art. 5(a) in the Council version of the updated ECL it says, that *'up to 5%'* will be used, opening the door for smaller quantities than the maximum number. At the same time, this paragraph also sets a target for domestic net emissions of 85%. To achieve *'the binding Union 2040 target'* of 90% (Art. 4(3)), the maximum amount of 5% for international credits is necessary unless domestic reductions exceed 85%. It is unclear what happens if there is not enough supply of high-quality credits on how the binding target will then still be achieved.

What is the international credit market pilot period?

The Council is asking the Commission to consider *'a pilot period to initiate a high-quality and high-integrity international credit market'* in the years 2031 to 2035. This is not proposed as a contribution towards any target. The intention seems to be to ensure that a supply of *'high-quality'* credits is available in 2036 and beyond. The pilot phase would enable actors to set up procedures and institutions and it will provide potential sellers with first experiences, revenue streams and possibilities to negotiate supply contracts for the period until 2040. Similar approaches were used in the initial phase of the Clean Development Mechanism under the Kyoto Protocol. Any credits bought during the pilot period and not used for compliance would be part of the climate finance contribution of the EU.

How would the use of international credits impact national targets?

Currently, national targets are set until 2030 for greenhouse gas emissions and removals regulated under the LULUCF Regulation and the Effort Sharing Regulation (ESR). Both regulations end in 2030 and do not allow the use of international credits but provide several flexibility elements. The Commission's proposal of July 2025 already included a provision that national targets to distribute the effort for achieving the Union wide target in 2040 should be assessed. In the Council's proposal, the different situations and specificities of Member States are mentioned in more detail related to upcoming legislative proposals, like *'taking into account different national circumstances and paying particular attention to impacts on consumer prices, energy and transport poverty and to regions and sectors, including their investment capacity'*. In general, a higher focus lies on the consideration of flexibilities to be considered, *'across and within sectors and instruments to support a cost-effective approach'*.

The Council's proposal also explicitly mentions the idea of the use of international credits as a flexibility element for compliance of national targets: A paragraph under Article 11 is added, to take into account *'the flexibility for Member States to use high-quality international credits to fulfil up to 5% of their post-2030 targets and efforts'* in the review of the ECL, six months after each global stocktake of the Paris agreement. This takes place every five year, with the next one due in 2028.

The maximum quantitative amount of international credits related to these 5 % to be used for compliance in national targets depends on target scopes: National targets post-2030 might take on a different form than the current national ESR and LULUCF targets. This amount is part of the overall 5% for international credits to keep the target of a domestic net reduction of 85%. To achieve this, the amount would have to be earmarked for potential use by Member States for their national targets.

- Assuming an ESR-like target, this quantity might be 38 million carbon credits in 2040 and 113 million for the period 2036 to 2040 under linear accounting. This corresponds to 16% of the total maximum quantity for Article 6 in this period.
- Assuming a LULUCF removal target of 289 Mt CO_2e, another 14 million international credits could be earmarked for compliance of national LULUCF targets in 2040 or 43 million for the period 2026 to 2040. This corresponds to 6% of the total maximum quantity for Article 6 in this period.

The proposal explicitly mentions also the 'need to ensure a level playing field across Member States' in 'operationalising the use of international credits' which should be taken into account by the Commission. Such a 'level playing field' could be ensured by a central purchasing authority. This would allow the EU to enter strategic partnerships with selected countries as a condition/requirement for eligibility for the EU market. Such a central authority would also have a stronger negotiation power than single Member States and might provide highest certainty for the quality of credits entering the EU.

What is the role of international credits in the EU ETS?

The Council's proposal calls for a revision of the current EU ETS trajectory in the upcoming review of the ETS Directive '*to take into account the agreed 2040 target in a manner that would allow for a limited amount of emissions after 2039*'. It states in addition, that '*a slower phase-out pathway for free allocation of allowances from 2028 onwards'* should be timely considered. It confirms that the integration of domestic permanent removals should be reflected. Importantly, it is mentioned again that '*international credits should not play a role for compliance in the EU ETS'*, i.e. operators will not be allowed to directly use these credits.

LULUCF

Regarding the sector Land Use, Land-Use Change and Forestry (LULUCF), the position of the Environment Council differentiates the role of natural sinks in the EU's 2040 climate target by calling for appropriately reflecting *'the realistic contribution of carbon removals to the overall emission reduction effort, while taking into account the uncertainties of natural removals'*. The European Commission's proposal had already underscored that the integration of the land sector into the target requires to *'take into account uncertainties notably those linked to the impacts of climate change'*. The Council statement goes further by identifying specific factors influencing natural removals that are considered drivers of LULUCF emissions and removals that are beyond the control of current land management, i.e.: *'effects of differences in forest age structure, natural variability and uncertainties notably those linked to the impacts of climate change and natural disturbances'*.

The most problematic provision included in the Council decision is an explicit formulation of what surpluses from or a shortfall of natural removals implies for other sectors. It states in the revision of Article 4, paragraph 5, that the target should ensure *'that possible shortfalls [of natural removals] would not be at the expense of other economic sectors, without prejudice to the possibility for Member States to use surplus natural removals to compensate their emissions in other sectors'*. This provision constitutes an inadequate and unbalanced integration of GHG emissions and removals from the LULUCF sector. While other sectors should not be held accountable for any gap to meet the target if the sink enhancement in the land sector proves to be lower than expected, surpluses should allow for reducing efforts of emission reductions there. This formulation also disregards the "like-for-like" principle, which stipulates that only permanent removals should offset equally permanent fossil emissions.

The Council decision further calls for Union-level measures including a revision of the climate target *'if the Commission finds that the estimated level of net natural removals for 2040 is significantly diverging from what would be required to achieve the 2040 intermediate target'*. Such an adjustment should be *'corresponding to and within the limits of the possible shortfalls'*. Nevertheless, a downward adjustment clearly reduces ambition and environmental integrity of the target as it is conditional to the performance of the land sector without compensating mechanisms, resulting in overall higher net GHG emissions and missing the 90% accounted net target. Again, the decision treats LULUCF emissions in an unbalanced way by failing to provide for an upward adjustment in the event of overperformance.

Both the Commission and Council acknowledge the observed decline of natural sinks in EU Member States over the last decade that is partly attributed to decreased growth and increased tree mortality. The current LULUCF Regulation includes a number of flexibilities for Member States that fail to meet their individual targets, provided they can demonstrate that climate change impacts caused non-compliance[4]. A requirement for the flexibilities is the proof provided by the countries that climate change impacts caused non-compliance. Accounting for impacts of climate change and natural disturbances on natural sinks included in mitigation targets is anything but a simple exercise. However, there are existing concepts for dealing with climate change impacts and compensation measures within the LULUCF sector. There could also the option introduced to the target formulation that allows for compensation of potential shortfalls using remaining international credits up to the maximum of 5%.

Already the European Climate Law referred to the *'long term'* perspective of the LULUCF sector and the potentials for substituting fossil-based material with bio-based products. Indeed, mitigation activities in the LULUCF sector need long lead times and their impacts last for decades if not centuries, e.g. in forests. Nevertheless, there are significant short-term mitigation opportunities, especially for reducing emissions, e.g. from drained peatlands. These short-term opportunities become even more important in the light of the short- to medium-term reductions in removals from forests due to climate change impacts. Unfortunately, neither the Commission's proposal nor the Council's decision adequately emphasizes the urgency of implementing such measures.

Finally, the Commission proposal and the Council agreement leave the question unresolved whether a separate target for natural removals should be established post-2030. There is no formulation of a maximum contribution of the land sector to the target as it is included for the 2030 target where only at a maximum of 225 Mt CO_2 can be accounted. The European Scientific Advisory Body on Climate Change recommended maintaining separate targets for minimum removals and maximum contributions of removals towards net emissions' goals in order to prevent mitigation deterrence and reflect the high uncertainties of the LULUCF sector (ESABCC 2025).

ETS 2 and the Social Climate Fund

The Council's legislative proposal suggests postponing the start of the EU Emissions Trading System 2 (EU ETS 2) by one year, shifting its commencement to 2028. This delay is intended to ensure a smooth transition. Two weeks earlier, the Commission had already proposed extensive measures to ensure such a smooth start while maintaining the start in 2027. These measures include strengthening the soft price cap and increasing the issuance from the Market Stability Reserve (DG CLIMA 2025).

A postponement is already regulated under Article 30k of the Emissions Trading Directive, which explicitly states, however, that a delay is permissible only in the event of exceptionally high energy prices. The current proposal does not reference energy price developments, and the rationale of facilitating a smoother transition does not align with the legal conditions set out in Article 30k.

[4] For more details, see EEA (2024)

Article 30k(2) outlines the rules governing the implications of a postponement, including provisions on the emissions cap, auctioning, and revenue allocation. According to the Council's legislative proposal, these rules would apply. Crucially, Article 30k(2) stipulates that the emissions cap for 2028 will remain unchanged, as if EU ETS 2 had started in 2027. This results in a significantly more ambitious cap at the outset of the ETS 2, which contradicts the stated goal of a smooth transition. A higher cap may increase price pressure and impose a greater financial burden on fossil energy users.

Conversely, launching EU ETS 2 in 2027 with a lower cap would allow time for a gradual adjustment and provide stakeholders with the opportunity to invest in climate-friendly technologies. Early investments are essential to mitigate future CO_2 cost burdens. However, shifting regulations, absent price signals, and reduced credibility undermine the incentives for such investments.

Postponing the start of EU ETS 2 also has fiscal consequences. Member States would forgo substantial auctioning revenues that could otherwise support energy efficiency and decarbonisation programs. At a carbon price of €60/t CO_2 (equivalent to €45 in 2020 values and corresponding to the soft price cap in Art. 30h of the ETS Directive), approximately €50 billion in revenues would be lost in 2027.

The delay further impacts the Social Climate Fund (SCF), which is designed to specifically support vulnerable households, transport users, and microenterprises in their transition to climate neutrality. In our understanding, the SCF budget would remain unchanged at €65 billion. The rules linked to a lower SCF depend on triggering Art. 30k which is not planned, the Council only intends to use the rules in that article. However, the later start of the ETS 2 impacts revenue generation for 2027. The Council proposed to double the pre-financing through the ETS 1 of currently 50 million EUA (approx. 4 billion Euros) to provide a first injection of revenue for an early start of the SCF. The remaining difference to the required €10.9 billion will need to be raised through other avenues, e.g. the early auctioning proposed by the EU Commission (DG CLIMA 2025). Any shortfall will significantly limit the ability to support vulnerable groups in making necessary and early-on investments and transitioning to climate-friendly alternatives. Contrary to the idea of leaving no one behind, vulnerable groups may be worst affected if support measures cannot be established in time. To safeguard social fairness and credibility, the SCF should preferably be linked to actual carbon price developments so that its share equals at least 25% of total revenues.

Rather than postponing the introduction of the EU ETS 2, a smooth transition needs a robust EU policy mix that drives emission reduction measures in the building and transport sectors—the most effective safeguard against high carbon prices in the future. National measures within a comprehensive instrument mix are equally critical to reduce emissions and ease price pressures. Large Member States, in particular, must act swiftly and effectively to meet their Effort Sharing obligations and self-imposed climate targets. ETS 2 alone will not deliver the necessary reductions in the covered sectors. The three largest emitters—Germany, France, and Italy—account for more than half of ETS 2 emissions and therefore exert significant influence on price dynamics. These countries bear a special responsibility to lead by example and accelerate climate action.

The role of transport

GHG emissions in the transport sector have not yet fallen sufficiently to meet the reduction targets set out in the EU Climate Law and the Effort Sharing Regulation for 2030 and the target proposed by the Council for 2040. Recitals 5 and 7a therefore reiterate that existing measures must be fully implemented, but that initial visible progress has already been made in climate protection efforts, such as the uptake of new electric vehicle registrations, which has been driven by CO_2 emission standards.

It is therefore appropriate for the Council to specify in Article 4(5) that instruments for the increased use of low or zero-emission fuels in the transport sector should be provided for the timeframe beyond 2030. This is particularly important as the Renewable Energy Directive does not currently provide for any increasing renewable energy ambition targets for the transport sector after 2030. The delayed launch of ETS 2, on the other hand, weakens the GHG emission reduction trajectory of the transport sector. This makes it all the more crucial not to reduce the ambition level in the reviews of CO_2 emission standards for light-duty including cars and heavy-duty vehicles and to continue the transition to zero-emission vehicles.

Outlook

The revised European Climate Law will be agreed between the Council, the European Parliament and the Commission (Trilogue). The Parliament has adopted a position that is mainly identical to the Council. As a result, it seems likely that the ECL will be adopted with these changes.

Issues that the Parliament missed to address but might at least partially still be reflected in the policy packages and legislative proposals:

- A balanced integration of GHG emissions and removals from the LULUCF sector by setting a maximum contribution and a mechanism to compensate any shortfall, e.g. via the use part of Article 6 credits which are not earmarked for other uses.
- A mechanism to ensure that the accounted net target of 90% is achieved even if the full Article 6 quantity is not used.
- Ensuring that the full pre-financing of the Social Climate Fund in 2027 is achieved.

Once the changes to the European Climate Law are adopted, the Commission will bring forward a series of legislative proposals for achieving the 2040 target. These proposals will be accompanied by a detailed impact assessment addressing the considerations in Article 4(4) and 4(5). The level of ambition for the entire period 2030 to 2050 will strongly depend on the legislative proposals. Many changes to the current legislation will only need to come into effect around 2035 leaving ample room to thoroughly assess these needed revisions.

This updated brief added new insights on the size of the Social Climate Fund and took into account the decisions by the European Parliament.

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