

## EU Climate Neutrality Law – Position of the Energy-Intensive Industries

The Energy-Intensive Industries give strong support to the development of policies to enable the transition to a climate-neutral economy by 2050, whilst keeping industry competitive. We consider that the Climate Law offers an opportunity for a thorough reflection on the architecture of our EU climate policy, on societal changes related to such a deep transformation of our economy and more broadly on EU's role in the global arena. We recommend that the Climate Law:

1. Includes an assessment of the timely and adequate delivery of the identified framework conditions for energy intensive industry, as per the Masterplan for a competitive transformation of Energy-Intensive Industries;
2. Explicitly mentions the need to prevent carbon and investment leakage;
3. Monitors embedded emissions from imported products;
4. Foresees regular and detailed assessments of third countries climate ambition;
5. Includes references to levels of penetration and commercialisation of breakthrough technologies and their economic affordability;
6. Provides legal clarity on how negative emissions can be accounted for and clarify how imported resources will be accounted for.

### Background

*Through our joint contribution to the “Masterplan for a competitive transformation of Energy-Intensive Industries (EIIs)<sup>1</sup>”, our sectors have aimed to achieve progress on the enabling framework conditions for a Climate-neutral, Circular Economy by 2050. The Masterplan is the result of a collective work inspired by the shared ambition of seizing the opportunities of the transition to a climate-neutral economy while addressing the challenge of a fragmented international climate action.*

*The Masterplan also identifies three key enabling conditions: creation of markets for climate-neutral, circular economy products; developing climate-neutral solutions and financing their uptake; access to resources and deployment. For each of them, it identifies strategic priorities as well as key performance indicators. Following on from his exercise and the information collected from all stakeholders, we call for a Clean Industry Package with concrete actions in the next 12 months, matching Europe’s climate ambition.*

*With regards the objective of climate neutrality, it is essential that European policymakers and society work together to ensure that the three key enabling conditions are put in place to achieve climate neutrality as part of a clear climate neutrality strategy. A stated objective, without a clear plan on how to provide the identified necessary framework conditions to achieve this objective, does not represent a strategy.*

*In the below section, we provide some of our reaction to the European Commission’s draft climate law<sup>2</sup>.*

<sup>1</sup> Masterplan for a competitive transformation of EU energy-intensive industries enabling a climate-neutral, circular economy by 2050 (<https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=39583&no=1>)

<sup>2</sup> Regulation establishing the framework for achieving climate neutrality and amending Regulation (EU) 2018/1999 (European Climate Law) <https://ec.europa.eu/info/law/better-regulation/>



## ***The European Climate Law***

The Energy-Intensive Industries give strong support to the development of policies to enable the transition to a climate-neutral economy by 2050, whilst keeping industry competitive. The Climate Law offers the opportunity for a thorough reflection on the architecture of our EU climate policy, on societal changes related to such a deep transformation of our economy and more broadly on EU's role in the global arena. The pursued "leading by example" strategy gives the EU even greater responsibility, since other countries will follow EU's leadership only if it demonstrates success in combining climate change mitigation with economic development and social acceptance.

Within this context, the submission of final nationally determined contributions (NDCs) and mid-century strategies by all signatories of the Paris Agreement foreseen in the coming months will give better insight on expected levels and possible divergence of climate ambition across the world. The Climate Law as well as the underlying legislation needs to take into account such international developments in order to preserve at the same time environmental integrity, economic competitiveness and social acceptance.

The detailed analysis accompanying the Commission's Strategic Vision "A Clean Planet for all" indicates that deep CO<sub>2</sub> emissions reductions in EIs are technically possible through a combination of technological pathways. At the same time, the Commission document (table 17 page 227) states that for energy intensive industries "*the risk of carbon leakage depends on measures that allow EU industries to remain competitive and if there is a unified global decarbonisation ambition*". Hence, carbon leakage measures need to remain commensurate to and effective for the pursued high level of climate ambition.

Against this background, we would like to raise the following comments to the Commission proposal:

1. **Include an assessment of the timely and adequate delivery of the identified framework conditions for energy intensive industry, as per the Masterplan for a competitive transformation of Energy-Intensive Industries;** the Climate Law and the underlying legislation should not only provide predictability of the pursued climate ambition but also provide the enabling framework conditions as well as defining a mechanism for monitoring progress on such conditions. As mentioned above the Industry Transformation Masterplan provides a solid basis for strategic priorities, policy recommendations as well as key performance indicators.
  - ✓ **Request: Article 3 (3) should add an additional point "The Commission shall consider the following: (I) "An assessment of the timely and adequate delivery of the identified framework conditions for energy intensive industry"**
2. **Preventing carbon and investment leakage:** measures to reduce the risk of carbon leakage and investment leakage should be included in article 3(3) as an element to be taken into account when setting the trajectory towards climate neutrality. Avoiding the risk of carbon leakage is a pre-condition for preserving the environmental integrity of EU climate policy, since it contributes to reduce emissions at global level while maintaining jobs and investments in Europe. This is also instrumental in facilitating the social acceptance of EU leadership in climate ambition. Therefore, measures to reduce the risk of carbon leakage should be an inherent element of the impact assessments accompanying the decisions on climate targets rather than a separate initiative, avoiding any national distortions of the EU level playing field.

- ✓ Request: Article 3 (3) should add an additional point “The Commission shall consider the following; (k) “The prevention of carbon and investment leakage, in particular in energy intensive industries exposed to global competition”
3. **Tracking consumption emissions:** the climate neutrality target set in article 2(1) seems to refer to EU production emissions. As the EU represents around 10% of global emissions, and this share will inevitably decrease in the future, it is important to monitor also emissions embedded in consumption in order to preserve environmental integrity and avoid carbon leakage. A linear trajectory covering emissions from production in the EU has a limited impact on worldwide emissions if it is replaced by increased emissions from imported products.
    - ✓ Request: When setting the trajectory for achieving climate neutrality as foreseen in Article 3, the Commission shall assess its impact on the evolution of consumption-related emissions.
  4. **Analysing adaptation costs & regular assessments of third countries climate ambition:** the international dimension of impact assessments should be complemented by a regular analysis of adaptation costs, based on international commitments to combat climate change. Third countries’ climate ambition has a major impact on EU adaptation costs, since they represent the remaining 90% of global emissions; hence, this element should be addressed transparently in the implementation of the Climate Law. The European Commission in its Green Deal publication said that the Climate Law will “set out clearly the conditions for an effective and fair transition, to provide predictability for investors, and to ensure that the transition is irreversible”. While the trajectory is clear, we need to take into account the dynamics of the global economy and thus, we recommend that the Commission performs regular impact assessments of its climate targets and take into account global actions over time that feed into the EU strategy. Such impact assessments should include not just an assessment of the efforts of third countries, including the cost consequences of unharmonized climate policies, but also of the EU’s implementation of the key enabling conditions outlined in the aforementioned Masterplan.
    - ✓ Request: Article 3 (3) (1) should include more detailed assessments of third countries climate ambition on adaptation costs beyond the current “international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement and the ultimate objective of the United Nations Framework Convention on Climate Change”.
  5. **Setting a technically and economically feasible trajectory:** considering the 2050 climate-neutrality target, it is clear that incremental change will not be sufficient and there is the need to accelerate the uptake of breakthrough solutions. These solutions will not follow a linear trajectory, but will have a disruptive impact on emissions reductions, provided that there is sufficient time to develop them and a supportive regulatory framework and the underlying infrastructures and resources (in particular in the field of energy and raw materials) are put in place. Article 3(3)c does mention best available technology as a criterion for setting the trajectory, hence it should refer explicitly to technical feasibility and the economic affordability as well as the actual level of penetration and commercialisation. Similarly, while regulatory stability is an important pre-condition for mobilising low-carbon projects, we would caution that this predictability would be undermined by changes to the decarbonisation trajectory every 5 years without proper impact assessments, as envisioned in article 3 (1) and 5 of the climate law. Recognising the need for the regulatory framework to be



inclusive of the latest available science, we hence emphasise the importance of carefully impact assessing any change made to the Union's trajectory, following the better regulation guidelines

As far as the ETS sector is concerned, any change of the decarbonisation trajectory on which the 2018 ETS review for Phase IV was based should take into account that energy Intensive Industries between 1990 and 2015 EIs have already reduced emissions by 36% (Source: European Environment Agency) . With an increased GHG target for 2030 (from -40% to – 50% or -55%), if the current split of efforts between sectors remain the same, the linear reduction factor of 2.2 % would significantly be adjusted upward. This would likely result in a cross sectoral correction factor being applied in Phase IV as the industry cap will not be then sufficient enough to ensure that best performing installations do not face undue carbon costs.

✓ Request: Article 3 (3) should add a reference to economic affordability, level of penetration and commercialisation of technologies

**6. Improve legal clarity with regards accounting rules:** The EU needs a coordinated response to the threat of climate change at the Union level. It is therefore important that the future framework, while taking into account national specificities, does not lead to a nationalization of climate policy and fragmented action inside the EU. Trans-border GHG projects should still be eligible for GHG reduction accounting and as negative emissions are expected to play a greater role towards 2050, it is important to clarify, under which conditions industrial sectors will be able to report negative emissions. Finally, it is expected that Europe will rely on energy and resource imports to reach climate-neutrality. It should be clarified how these imported resources will be accounted for towards the objective of being climate-neutral as a continent.

✓ Request: The climate law should provide a clear definition of climate-neutrality at the EU level. Appropriate clarifications with regards to negative emissions and imported resources should also be provided in due course.