REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

EU climate and energy targets - 2020 targets achieved, but little indication that actions to reach the 2030 targets will be sufficient

Contents

This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 259 of the Financial Regulation and to be published together with the Special Report.

I. THE COMMISSION REPLIES IN BRIEF

The Commission welcomes this Special Report by the European Court of Auditors (ECA).

The European Green Deal[1] sets out the Commission's green transition ambitions, including the climate and energy targets for 2030 on the trajectory towards "net-zero" greenhouse gas emissions by 2050, as enshrined in legislation under the European Climate Law[2]. Building on the experience to deliver on the 2020 climate and energy targets and on the existing legislation for 2030, on the basis of impact assessments and following the better regulation principles, the Commission has put forward a series of legislative proposals to make its policies fit for delivering the more ambitious 2030 greenhouse gas emissions net reduction target of 55% below 1990 levels. The 'Fit for 55' package provides a concrete plan to put the EU on track to become the first climate neutral continent by 2050.

With the illegal aggression of Russia on the Ukraine, these objectives have been complemented by the need to face the consequences of the resulting energy crisis and in achieving energy security for the EU. In this context, the REPower EU Plan builds on the Fit for 55 package by fostering the deployment of low carbon technologies and renewable energy sources, reducing our energy consumption and increasing our energy independence.

The Commission welcomes that the co-legislators are advancing well on the negotiations under the 'Fit for 55' package, having already reached political agreement on most proposals, including the recast Energy Efficiency Directive (EED), the amendment to the Renewable Energy Directive (RED) and the amendment of the Effort Sharing Regulation (ESR). The Commission highlights that under the Energy Union and Climate Action Governance Regulation, Member States will update their national energy and climate plans for the period 2021-2030 to show how they can meet the 2030 targets on the ground. The Commission is committed to continue to work with Member States to improve on the plans, their long-term planning and reporting of progress and to support them in the implementation of the agreed legislation.

The Commission highlights that in reporting its greenhouse gas emissions, it is following the United Nations Framework Convention on Climate Change (UNFCCC) reporting guidelines. In terms of the scope of emissions on international aviation and maritime transport, the Commission notes that the extent of coverage of international aviation and shipping under EU climate policy and targets in the future is linked to developments in the International Civil Aviation Organisation (ICAO) and the International Maritime Organisation (IMO). With regards to emissions associated with imported goods, the EU's greenhouse gas targets are defined following the international system of greenhouse gas accounting, reporting emissions where they are produced and not including embodied emissions of trade of goods and services. Consumption- based emissions reflect the carbon embedded in all EU imports. Carbon leakage occurs when companies based in the EU move carbon-intensive production abroad to countries where less stringent climate policies are in place than in the EU, or when EU products get replaced by more carbon-intensive imports. In view of the risk of carbon leakage, the EU has agreed to put in place a carbon border adjustment mechanism (CBAM) as of 2026, which is expected to contribute to decreasing the carbon content of imports of the EU and of international trade.

[1] Striving to be the first climate-neutral continent - https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en

[2] https://climate.ec.europa.eu/eu-action/european-green-deal/european-climate-law_en

The Commission accepts 5 of the 7 sub-recommendations (1a, 1c, 2a, 2b, and 3a), and partially accepts 2 (1b and 3b)[3].

II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

1. EU 2020 climate and energy targets reached

The EU 2020 climate and energy targets were achieved. The Commission shares the view of the ECA[4] that this was in part due to external factors.

The Commission assessed the contribution of the COVID-19 pandemic to achieving the EU's 2020 energy targets in the report on the Achievement of the 2020 Renewable Energy Targets[5] (section 3) and the 2022 report on the achievement of the 2020 energy efficiency targets[6] includes specific assessment of the impact of COVID -19.

The Commission also considered the COVID-19 impact when assessing the progress and compliance with the greenhouse gas emissions reduction target. This has been transparently reported in the Climate Action Progress Report 2021 (CAPR 2021)[7]. Moreover, the Commission reported that while EU domestic greenhouse gas emissions rose by 4.8% in 2021 from their exceptionally low 2020 pandemic level, they remained 4% below pre-pandemic 2019 levels[8].

The ECA notes that unexpected GDP fluctuations affected Member State's performance[9]. With regards to greenhouse gas emissions, the Commission highlights that absolute emission reduction targets have an anti-cyclical element to them: in periods of economic slowdowns, fewer measures are needed to reach the climate targets, precisely when the economy can afford them less. The Commission believes that the Union has the right policies in place to achieve the absolute emission reduction objectives. At the same time the Commission can use available reporting on greenhouse gas emission to assess the greenhouse gas emissions per unit of GDP per capita.

With regards to the Effort Sharing legislation that sets national targets to Member States, the Commission highlights these are based on historic GDP per capita and different from the cost-effective emission reductions potential. Therefore, the possibility to do transfers of Annual Emission Allocations (AEAs) between Member States allows to bridge the fair distribution of greenhouse gas emission reductions among Member States, while at the same time ensuring the EU achieves its effort sharing target cost-effectively. This is an inherent element of the effort sharing legislation and a legitimate means for Member States to achieve their targets, in particular for those Member States

[3] See section III below for more details on the Commission's position to the ECA's recommendations

[4] ECA observation 21-26

[5] COM/2022/639 final

[6] COM(2022) 641 final

[7] CAPR 2021 - https://ec.europa.eu/commission/presscorner/detail/en/ip_21_5555; -and- https://climate.ec.europa.eu/system/files/2021-11/policy_strategies_progress_com_2021_960_en.pdf

[8] CAPR 2022 - https://climate.ec.europa.eu/news-your-voice/news/climate-action-progress-report-2022-2022-10-26_en; -and- https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022DC0514&from=EN

[9] ECA observation 27-31

with a national target that is more ambitious compared to their cost-effective emission reductions potential.

The prices of AEAs transferred between Member States under the Effort Sharing legislation are determined by Member States involved in a particular transfer. Generally, the price paid will reflect supply and demand with prices being lower if there is significant overachievement of the greenhouse gas (GHG) emission reduction target at EU level. While there were no legal provisions on disclosing the price of individual transfers between Member States to reach the 2020 effort sharing targets, the Commission highlights that provisions under the Effort Sharing Regulation and the Governance Regulation increase the transparency. Member States need to inform the Climate Change Committee of their intent to transfer AEAs before any transfer is made. In addition, the Commission makes the information available about the range of prices paid per AEA transferred. The Commission commits to make such information accessible to EU citizens in an easy, transparent and comprehensive manner.

2. EU greenhouse gas emissions reductions accounting

The ECA notes that the EU compares well internationally in terms of greenhouse gas emissions reduction[10], but considers that not all emissions are accounted for. In particular, the ECA mentions on the one hand the treatment of emissions from international aviation and maritime activities, and on the other hand the question of emissions embodied in trade[11].

The reporting of the EU greenhouse gas emissions is fully in line with the United Nations Framework Convention on Climate Change (UNFCCC) reporting guidelines and in accordance with the 2006 Intergovernmental Panel on Climate Change (IPCC) guidelines, followed by all Annex I parties[12] that report their greenhouse gas emissions to the UNFCCC. Although, under this framework, international navigation and aviation are not accounted for in the total domestic emissions of the countries, they are fully accounted for as memo items in the inventory of each country. The same guidelines will be followed under the Enhanced Transparency Framework of the Paris Agreement. However, and in line with the economy-wide approach in Article 4 of the Paris Agreement, the EU actually includes not only national domestic emissions but also intra-European international aviation and intra-EU international shipping in its greenhouse gas emissions targets.

On the question of the accounting of emissions associated with trade of goods and services, the EU follows the reporting guidelines adopted by all parties under the UNFCCC, which reflect the basic principles or fundamental structure of the UNFCCC and of the Paris Agreement. The Paris agreement is based on Nationally Determined Contributions. The EU and its Member States (and any other party to the Paris Agreement or UNFCCC) can put in place policies and measures that impact the emissions occurring domestically. Conversely, emissions embedded in international trade relates to the accountability for emissions taking place in other countries, thus subject to regulations put in place by other states. In addition, there is no international framework for reporting such emissions, and "consumption-based" accounting is lacking agreed guidelines, methodology and processes on data and approaches to be followed. The vast majority of what the EU consumes is actually produced

[10] ECA observations 47-53

[11] ECA observations 54-60

[12] List of UNFCCC Annex 1 parties : https://unfccc.int/process/parties-non-party-stakeholders/parties-convention-and-observer-states?field_national_communications_target_id%5B515%5D=515&field_parties_date_of_ratifi_value=All&field_parties_date_of_signature_value=All&field_parties_date_of_ratifi_value_1=All&field_parties_date_of_signature_value_1=All&combine=

within the EU and part of EU's imports are fossil fuels that lead to emissions being accounted in the EU. Moreover, a different accounting system of emissions would be associated with a different definition of the climate targets defined consistently over time and it therefore appears not fully consistent to compare targets under one set of accounting rules with realised values under a different set of accounting rules for one point in time[13].

The Commission notes that carbon leakage is defined as occurring when companies based in the EU move carbon-intensive production abroad to countries where less stringent climate policies are in place than in the EU, or when EU products get replaced by more carbon-intensive imports. Available analysis shows that the EU's consumption-based emissions and production-based emissions exhibit the same declining trend. Both are declining and are expected to continue to decline. In fact, the EUS's consumption-based emissions are estimated to have reduced more since 2005 than production-based emissions. [14] Nevertheless, in view of the risk of carbon leakage, the EU has agreed to put in place a carbon border adjustment mechanism (CBAM) as of 2026, which is expected to contribute to decreasing the carbon content of imports of the EU and of international trade.

3. Sectoral contribution to EU targets and cost-effectiveness

The Commission has a good overview of how the different sectors contribute to the three headline targets[15], and notes that a significant progress has been made to implement the higher ambition for 2030 with the conclusion of the negotiations on most of the proposals under the 'Fit for 55' package. The Commission highlights that it worked with the co-legislators, during the negotiations for an EED recast[16], to complement the mechanisms foreseen in the Energy Union and the Climate Action Governance Regulation, by ensuring that the sum of the national contributions for 2030 will be equal to the collective EU target for 2030 for final energy consumption and that Member States will describe and implement additional measures in case they are short of meeting their contributions. The same rationale applies also to the negotiations for the revision of the renewable energy directive (RED)[17]. The provisional agreement maintains the binding target at EU level for 2030, underpinned by targets and measures to support the uptake of renewables across various sectors of the economy - industry, heating and cooling, transport. The revision also maintains the mechanisms for ensuring the target achievement which are envisaged in the Energy Union and Climate Action Governance Regulation.

The regulatory framework is just being put into place but there are already indications that actions and investments are taking place on the ground. As a matter of fact, the years since the implementation of the European Green Deal saw a boom for renewable energy and energy efficiency technologies. Both 2021 and 2022 set new records for wind and solar power deployment and heat pumps sales (the trend started before the energy crisis). Under their recovery and resilience plans, Member States have put forward reforms and investments that will contribute towards their climate and energy targets. The updated national energy and climate plans will be a key moment to take

[13] ECA observation 55

[14] OECD (2021), Trade in embodied CO_2 ($TeCO_2$) Database. Carbon dioxide emissions embodied in international trade – OECD. Production based emissions for the EU decreased by 15.9% from 2005 to 2018, while consumption based emissions fell by 17.3%.

[15] ECA observations 61-65

[16] https://ec.europa.eu/commission/presscorner/detail/en/ip_23_1581

[17] https://ec.europa.eu/commission/presscorner/detail/en/IP_23_2061

stock of whether the policies and measures put in place or planned by Member States would be sufficient to meet the 2030 climate and energy ambition.

While it is clear that more needs to be done and climate and energy action needs to accelerate on the ground and funding needs to be mobilised to reach the higher ambition for 2030, the Commission considers that at this stage of the process, with the regulatory framework just being put in place, there is substantial progress.

With regards to EU policies, the Commission notes these are based on impact assessments and are subject to evaluations, in line with the Better Regulation principles. With regards to the EU budget, the Commission reiterates that the 2014-2020 budget climate spending target was set and monitored on the basis of the methodology established for the 2014-2020 MFF and enshrined in the various basic acts. The Commission also recalls its reply on the climate spending special report[18] that it is working on establishing a methodology, using available data, to assess the EU's budget overall impact in terms of GHG emission reductions[19].

With regards to Member State policies, Member States need to implement national policies and measures that fit their specific national circumstances in order to ensure they meet their national binding targets. Member States report information on their policies and measures to the Commission in accordance with the Governance Regulation. The assessment of the cost-effectiveness of national policies and measures thus needs to take place at national level. The Commission depends on the reporting by Member States in order to assess the national policies and measures.

The Commission recognises that information from Member States is insufficient regarding the volume of investment, gaps and sources, as well as financing measures able to further mobilise investment. Nevertheless, the Commission would like to highlight that detailed requirements for information on financing are set out in the guidance issued by the Commission to Member States for updating their national energy and climate plans (NECPs)[20] and, as regards energy efficiency – Article 28 of the energy efficiency directive (EED) Recast. In addition, the Commission will follow up with concrete guidance to Member States and market actors on unlocking private investments in energy efficiency[21].

Moreover, in relation to policy assumptions used for the 'Fit for 55' package assessment, the Commission would like to highlight that the analysis was built on the Reference Scenario 2020[22] which takes into account all EU and Member State policies already in place at the time and represents the assumption upon which the 'Fit for 55' policy options are quantified. This is standard practice for the assessment of new policies, in this case the update of the policy framework to get to the 2030 climate target. The approach taken in the 'Fit for 55' package, which follows the Commission Better Regulation Guidelines, allowed a full consistency across a very large number of impact assessments. These were scrutinised and received positive opinions by the Regulatory Scrutiny Board. Conversely,

[18] The Commission's stance on the report and recommendations is explained in full in the official replies : https://www.eca.europa.eu/Lists/ECAReplies/COM-Replies-SR-22-09/COM-Replies-SR-22-09_EN.pdf

[19] The Commission has published a staff working document which describes the updated methodology to track the contribution of the EU budget to climate for 2021-2027: (https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/swd_2022_225_climate_mainstreaming_architecture_2021-2027.pdf.

[20] Guidance on the update of the NECPs approved and published in November 2022 (C(20022) 8263 final 15.11.2022) (EN), and available in all languages on 15 December 2022 [C2022/C 495/02]

[21] As per the agreed Article 28 of the Energy Efficiency Directive (EED) Recast.

[22] Reference2020 scenario: https://energy.ec.europa.eu/data-and-analysis/energy-modelling/eu-reference-scenario-2020_en

assuming specific “incomplete implementation” assumptions would have involved arbitrary choices at both the EU and the Member State Level, which could not be backed by any evidence.

With respect to the assumptions about cost and performances of energy and transport technologies, they are the outcome of a comprehensive consultation process, involving JRC experts carried out and exchanges with a large group of expert stakeholders through a series of workshops to improve and validate the results.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

1. Recommendation 1 – Provide more transparency on the performance of the EU and its Member States on climate and energy action

To provide more transparency on the performance of the EU and its Member States on climate and energy action, the Commission should:

(a) use available reporting on greenhouse gas emissions per unit of GDP and per capita to assess the drivers of Member States’ progress and to engage with Member States with the aim to improve the performance of their climate and energy action, when needed;
(Target implementation date: December 2024)

The Commission **accepts** this recommendation.

The Commission will use available reporting on greenhouse gas emissions to report and assess the greenhouse gas emissions per unit of GDP and per capita, for example in the annual Climate Action Progress Report. In addition, the Commission already infers information from the Member States on the effectiveness of policies and measures from the NECPs submitted, where part of the review consists of assessing how likely the policies and measures contained in the plans will help achieving the climate and energy targets. This is complemented with information from the biennial national energy and climate progress reports, which allow the Commission to assess both the evolution in greenhouse gas emissions and to which extent the policies and measures have been implemented. Where appropriate, it will engage with Member States with the aim of improving the performance of their climate and energy action.

Finally, the Commission would like to highlight that it is primarily for the Member States to assess the drivers of progress towards their climate and energy targets. The Commission, together with the European Environment Agency (EEA), has supported them, and will continue to do so, through the provision of guidance on the ex-post assessment of policies and measures, together with numerous examples and best practices. (See also reply to recommendation 1b.)

(b) assess and report on the EU and Member States’ progress towards the targets, by distinguishing the impact of policies in place from the impact of external factors; and
(Target implementation date: March 2026)

The Commission **partially accepts** this recommendation.

While in specific cases it might be possible to quantify the impact of external factors, in many cases this will be impossible. The Commission analyses the effect of external conditions, as appropriate, during the evaluation step of the policy cycle. Considering the large methodological difficulties and uncertainties of differentiating the impact of individual policies and measures, the Commission will undertake an assessment distinguishing the impact of policies in place from the impact of external factors, where appropriate and possible.

Regarding greenhouse gas emissions, the Commission can assess the possibility of carrying out an analysis at EU level and reporting on it in the climate action progress report, if the results are sufficiently robust. This could include work with the EEA to develop an appropriate methodology and to evaluate policies ex-post. Such an assessment could include sharing best practices between Member States on ex-post evaluation of policies and measures to support their own assessment at Member State level.

(c) implement measures to allow for greater transparency regarding the price of greenhouse gas emissions and individual renewable energy share transfers.
(Target implementation date: December 2024)

The Commission **accepts** this recommendation.

With regards to greenhouse gas emissions, as foreseen already in the current legal provisions, the Commission is committed to make information available about the range of price per annual emission allocation transferred under the effort sharing legislation, based on the reporting under Regulation (EU) 2018/1999[23]. It will do its utmost to make the information as easily accessible, transparent and comprehensible for EU citizens in an online form, as possible.

With regards to renewable energy share transfers, the Commission will test the possibility, with the consent of the participating countries, to make public the information about the quantities and the price of the transfer. In the absence of such consent, the Commission could consider making the information public, if it is possible to do so without revealing the concrete Member States concerned. This could be communicated in the State of the Energy Union Report or through the Union Renewable Development Platform.

2. Recommendation 2 – Account for all greenhouse gas emissions caused by the EU

To account for all greenhouse gas emissions caused by the EU, the Commission should:

(a) assess the possibility of using the data it will collect through the Carbon Border Adjustment Mechanism to complement its reporting on EU progress towards the EU's 2030 greenhouse gas emission reduction target with reporting on net emissions associated with imported goods to the EU;
(Target implementation date: December 2026)

The Commission **accepts** this recommendation

The EU's greenhouse gas targets are defined following the international system of greenhouse gas accounting, which report emissions where they are produced and which does not consider embodied emissions in trade of goods or services. The accounting of emissions embodied in the trade of goods

[23] Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action : https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2018.328.01.0001.01.ENG

and services is lacking agreed guidelines, methodology or processes on data and approaches to be followed. The Carbon Border Adjustment Mechanism (CBAM) is an appropriate policy to address the risk of carbon leakage. It is acknowledged that CBAM data will provide information on carbon intensities of some goods imported and sold in the EU.

The data collection through the CBAM will start from the beginning of 2024 (for emissions from October 2023) and the quality of the data that will be reported is not known yet.

On the scope of the complementary reporting, the Commission can agree to carry out an analysis of the possibility of using the data collected under CBAM by 2026 to contribute to better understanding the impact of trade on GHG emissions.

(b) assess the feasibility of including in its 2050 target for climate neutrality the EU's share of emissions from international aviation and shipping.
(Target implementation date: December 2026)

The Commission **accepts** this recommendation.

The extent of coverage of international aviation and shipping under EU climate policy and targets in the future is linked to developments in the International Civil Aviation Organisation (ICAO) and the International Maritime Organisation (IMO). The recently agreed revision of the EU Emissions Trading System (EU ETS) Directive includes provisions for review of coverage of both international aviation and international shipping emissions in 2026 and 2028 respectively.

For maritime, the EU ETS, following the agreement by co-legislators, will partially cover shipping emissions. When the phase in of maritime emissions into the EU ETS is complete, by 2026, 50% of voyages will be covered. The legislation allows for a review by 2028 in the event of the adoption by the IMO of a global market-based measure to reduce greenhouse gas emissions from maritime transport.

For aviation, the scope of coverage of flights in the EU ETS is linked to the successful implementation of ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). If CORSIA is strengthened at ICAO's 2025 Assembly and if third countries implement it, then the scope will remain intra-European. The European Parliament and the Council have required the Commission to assess this in July 2026.

Further to this the Commission could assess the feasibility of including in the 2050 target for climate neutrality its fair share of emissions from international aviation and shipping.

3. Recommendation 3 – Support Member States' commitment to achieve 2030 targets

To support Member States' commitment to achieving the 2030 targets, the Commission should:

(a) work together with Member States to include in the updated National Energy and Climate Plans consistent information on the expected cost and effects of policies for achieving the targets, as well as on investment needs and funding sources to fill those needs.
(Target implementation date: December 2024)

The Commission **accepts** this recommendation.

As part of the preparation of the update of national energy and climate plans, the Commission has already intensified exchanges with the Member States on the need for more accurate and consistent information on the policy costs. The Commission will continue to consider this issue in the context of the assessment of the draft national energy and climate plans and the follow up discussions with Member States ahead of the submission of the final NECPs.

(b) assess the feasibility of enhancing the current system of transfers of greenhouse gas emissions and renewable energy shares between Member States, including the option of closer aligning the price of transfers with market prices.
(Target implementation date: December 2025)

The Commission **partially accepts** this recommendation.

With regards to transfers of renewable energy shares, the Commission accepts to explore the feasibility of enhancing the current system, in line with their flexible nature. This could cover an assessment of options to improve the transparency of the framework of statistical transfers. One option assessed will look into closer alignment of the price of transfers with market prices.

With regard to greenhouse gas emissions, the Commission does not accept to explore the feasibility of changing the system that has just been put in place by the co-legislators. The Commission understands that this recommendation refers to the Annual Emission Allocations (AEAs) under the Effort Sharing Regulation and would imply assessing the feasibility of introducing a minimum price for transfers of AEAs based for instance on the costs of investing in GHG emission reductions domestically. As explained above (section II.1), transfers of AEAs between Member States can make a major contribution to achieving the overall EU target in a cost-effective way and are an inherent element of the effort sharing legislation and a legitimate means for Member States to achieve their targets.

The issue of transfers of AEAs was discussed between the European Parliament and the Council during the negotiations to revise the Effort Sharing Legislation that was published in the official journal on April 26, 2023[24]. Based on the agreed legislation, the determination of the price of AEAs is left to Member States. Member States will be informed of any intended transfer of AEAs. As explained in the reply to recommendation 1c, the Commission is committed to facilitate transfers between Member States and increase the transparency of price information of transferred AEAs.

[24] Revised Effort Sharing Regulation (REGULATION (EU) 2023/857) https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R0857&qid=1682489073163