



THE FLEMISH MINISTER FOR JUSTICE AND ENFORCEMENT, ENVIRONMENT AND SPATIAL DEVELOPMENT, ENERGY AND TOURISM

VISION PAPER - GOVERNMENT OF FLANDERS

RE: Fit for 55

Summary

With this vision paper, the Government of Flanders provides an overall opinion on the series of legislative proposals launched by the European Commission on 14 July 2021 under the name Fit for 55. This vision paper will allow the Government of Flanders to speak with one voice and give negotiators at political and administrative level the necessary direction when it comes to determining a coherent position in various subdomains in line with the coalition agreement.

1. BACKGROUND

On 14 July 2021, the European Commission published the 'Fit for 55' package, a set of legislative proposals aimed at adapting the European framework on energy and climate policy to the climate targets set out in the European Climate Law. The European Climate Law entered into force in July 2021 and sets a new European net emission reduction target of 55 % by 2030, compared to base year 1990, and sets the target to achieve climate neutrality at European level by 2050. This European Climate Law constitutes the European Union's contribution to the Paris Agreement's objective of limiting the global temperature increase to well below 2 °C above pre-industrial levels, and to pursue efforts to limit the temperature increase to 1.5 °C.

With the launch of the 'Fit for 55' proposals, the European Commission is making use of its legislative right of initiative. Each of the proposals will be discussed during the coming months in the European Parliament and the Council of the European Union, which must reach agreement together before the new legislation enters into force. Flanders will adopt a critical and constructive attitude during this European and intra-Belgian policy process and intends to proactively communicate its views during the European negotiations.

Flanders supports the transition to a climate-neutral Europe, and in doing so we make maximum use of the assets we have at our disposal, such as innovation and technological solutions to help slow down global warming.

However, Flanders is not going blindly along with the European Commission's Fit for 55 proposals. Even though there is a need for a well-considered and supportive European policy, it is crucial that this policy respects a number of principles:

- Firstly, Flanders believes that all sectors of the economy and all European Member States should contribute in a balanced way to achieving the European climate targets.
- For Flanders, it is essential that the Fit for 55 package:

- does not lead to a higher tax burden or energy bill in Flanders;
- makes it possible to keep the energy bills of our citizens and businesses under control by preventing price shocks and helping structurally reduce energy demand;
- safeguards the competitiveness of our Flemish businesses and the purchasing power of Flemish families;
- takes into account the principle of cost effectiveness at European level.
- In addition, the European climate target should be achieved in a cost-effective manner, with the other non-binding targets (e.g. renewable energy or energy efficiency) supporting the climate target.
- Member States should be able to rely on a strong European framework of product standards and norms to achieve their national targets.
- Finally, Member States should be allowed sufficient flexibility to implement the fixed targets in a cost-effective manner.

These basic principles should together result in a future-proof and cost-effective European climate policy that enjoys broad public support. Flanders is of the opinion that some of these principles are currently not sufficiently taken into account by the European Commission's Fit for 55 package. Flanders will adopt a critical and constructive attitude during the negotiations on this package with a view to adjusting it to these principles.

2. POSITIONS IN PRIORITY DOSSIERS

2.1. Revision of the Effort Sharing Regulation

As regards the European Commission's proposal for the Effort Sharing Regulation, Flanders intends to focus on three points:

1. Firstly, Flanders wants to see the European 55 % target divided between Member States in a more balanced way, thereby also reducing the proposed 47 % target for Belgium.
2. In addition, Flanders will examine on a bottom-up basis the contribution it can make to a tightened Belgian target. In doing so, we also take into account the impact of the additional EU normative framework of Fit for 55 when this becomes clear.
3. Finally, it is also necessary to provide for additional flexibility to enable Belgium to achieve the required target.

For these reasons, Flanders proposes the following adjustments:

1. All European Member States should make a sufficient contribution to achieving the tightened European climate targets. To this end, it is important to reduce the gap between the highest and lowest national emission reduction targets within the ESR (the so-called spread). Flanders therefore calls on the European Commission to propose a smaller spread instead of maintaining the current spread of 40 %.
2. The European Commission's proposal currently only provides for an additional reserve for flexibility with the LULUCF sector, the use of which is, however, most uncertain. Flanders is considering whether it could suggest adjustments to existing flexibility mechanisms in order to improve their effectiveness, such as adapting ESR-LULUCF flexibility. In any case, it is essential to provide for additional flexibility mechanisms and make the necessary changes to the European Climate Law to allow for international flexibility as well.
3. In order to provide additional flexibility for the ESR target, Flanders proposes to make use of the allowances in the market stability reserve. Flanders does not agree to the total cancellation of allowances from this reserve. Instead of cancelling them altogether, these allowances should be available to Member States through auction as an additional form of

flexibility to achieve the tightened ESR targets. The revenues from this auction may be used as a source of funding for the Innovation Fund, a European Social Climate Fund or distributed among Member States.

Flanders also asks the European Commission to clarify the models and assumptions underlying the calculation of Member States' cost-efficiency targets.

2.2. Revision of the ETS Directive – Emissions trading for buildings and road transport

Flanders has fundamental problems with the European Commission's proposal to include buildings and road transport in a new European ETS.

A study commissioned by VEKA examined the impact on Flanders of the introduction of such a European ETS system for buildings and road transport. The study found, inter alia, that:

- at a carbon price of EUR 100/tonne CO₂, this ETS system would lead to an increase of around EUR 460 per year of the average Flemish family's energy bill;
- even with a carbon price above EUR 100/t CO₂ eq, the introduction of this system would only lead to modest reductions in transport and buildings by 2030, partly because the system will only be introduced in 2026, as well as because of low price elasticity;
- Moreover, according to the European Commission's proposal, not all the revenue generated in Flanders from this system would be returned to Flanders. Over the period 2026-2030, Flanders would see some EUR 420 million flowing away to other Member States through this system.
- The Commission's proposal would generate between EUR 5 and 8 billion in auction revenues for the Flemish Region in the period 2026-2030. The average available auction revenue per family would be EUR 346 per year at a price of EUR 100/t CO₂ eq.

Flanders does not consider a European emissions trading system to be an appropriate way to achieve the necessary emission reductions in buildings and transport. For the effectiveness of emissions trading depends on price elasticity, the availability of affordable alternatives and the investment cycle. Due to the low short term price elasticities, an ETS for buildings and road transport has little impact in the short term on, inter alia, deep renovation, transport demand and the model shift. Moreover, a European ETS price for buildings and transport will be too low to have an impact on richer Member States and too high to be acceptable to poorer Member States. As a result, this instrument risks not achieving its goal and turning into an ineffective European tax. Flanders is concerned that the instrument may complicate the introduction of certain regional measures. A European ETS system does not guarantee predictability of the price signal, and Flanders has virtually no influence on the design of the measure.

Member States are best placed to determine their own policies for achieving the necessary emission reductions in these sectors, for example through tax shifts, a normative framework and incentives.

On the other hand, Flanders does believe that certain European instruments, such as CO₂ standards for vehicles are important to achieve the necessary emission reductions. If some form of carbon pricing were to be introduced at the European level, it remains crucial for Flanders that all proceeds, if any, from carbon pricing should flow back to the Member States/regions where these proceeds are generated. This will enable Member States to take measures to limit the social impact of this instrument and to combat energy and mobility poverty.

2.3. Social Climate Fund

Flanders shares the concern about the social impact of the newly proposed ETS and agrees on the necessity to take measures to combat energy and mobility poverty. However, Flanders identifies a number of fundamental shortcomings in the proposal for the Social Climate Fund.

For example, in the Commission's proposal on the introduction of this fund involves significant additional solidarity between Member States. According to a study commissioned by the Flanders Energy and Climate Agency, Flanders would make a net contribution to this fund of some EUR 420 million over the period 2026-2030.

The introduction of the proposed Social Climate Fund would also result in an important administrative burden for the Member States. In addition, the financing of social climate policy does not have to be implemented through a new European fund. The Member States themselves are better placed to combat energy and mobility poverty. Flanders therefore proposes that Member States allocate at least 25 % of their own resources resulting from the new ETS to social compensations that offer a structural solution (e.g. higher incentives for energy-saving investments). This approach is also more in line with the principle of subsidiarity.

Flanders supports the extra attention for the social dimension of the climate policy, but we ask that it be integrated as much as possible within the current framework of the national energy and climate plans. If a social climate fund should be established at the European level after all, Flanders strongly advocates that it should not be financed with the revenues from the expansion of the ETS system. In the context of the full Fit for 55 package, Flanders can however agree to the introduction of a European Social Climate Fund that would be financed, for example, in the following ways:

- By using the ETS auction revenues that the Commission proposal has earmarked for an increase in the Modernisation Fund, for the financing of the Social Climate Fund instead.
- By using (part of) the revenues from the additional flexibility through the auctioning of allowances from the Market Stability Reserve to finance the Social Climate Fund

2.4. CO₂ emission standards for new passenger cars and light commercial vehicles

Flanders should be able to rely as much as possible on a clear and coherent European framework to achieve its own emission reduction and air quality targets. For in addition to emission reductions, tightened CO₂ targets will result in a significant reduction of NO_x emissions from road transport (currently responsible for about 20 % of the total NO_x emissions in Flanders) and will therefore contribute to further improvement of air quality and reduction of overfertilisation. Flanders therefore stresses the importance of an ambitious European framework for the further reduction of CO₂ emissions by cars and vans.

For this reason, Flanders advocates that these European regulations include the year 2030 as a phase-out date for the sale of vehicles with an internal combustion engine. However, it is important to continuously monitor the socio-economic feasibility of these ambitious targets.

Given that, already in the short term, Flanders must be able to rely on European action to achieve its own specific objectives (emission reductions, air quality, etc.), it does not agree to leaving the current standards unchanged in the period before 2030. Flanders calls for the abolition of the ZLEV bonus mechanism from 2027 and the abolition of derogations for certain small manufacturers. The target for 2025 could also be increased (with possible banking flexibility) to -20 %.

2.5. Revision of ETS Directive & CBAM – Emissions trading for industry, electricity production, aviation and shipping & protection against carbon leakage

As one of the main instruments of European climate policy, the EU ETS has already made a significant contribution to reducing European emissions. Flanders stresses that the ETS must continue to provide a stable and predictable framework so that businesses can make long-term decisions and invest in low-carbon and climate-neutral technologies. To this end, it is important

that this revision of the ETS Directive is future-proof and that it can rely on a balanced package of measures in terms of ambition, of maintaining industrial competitiveness, of solidarity mechanisms and of encouraging innovation.

As far as the level of ambition is concerned, Flanders agrees with the principle of a cost-efficient distribution between the ETS and ESR sectors. The ETS revision should allow sufficient flexibility in the light of the economic recovery in order to avoid price peaks. For this reason, Flanders does not agree to the proposed one-off reduction of the emission cap in the year following the adoption of the Directive. Flanders also would like to see the amount of allowances that are to be released from the market stability reserve to be in line with the volume of the influx. Flanders does not agree to the cancellation of allowances from the reserve. Instead, it would be better to auction part of the allowances as an additional form of flexibility for the ESR targets of the Member States, using the revenues as a source of financing for the Innovation Fund or a European Social Climate Fund, or distributing them among Member States.

In order to protect the competitiveness of businesses, we must ensure that no CO₂ leaks to regions outside the EU with less stringent climate rules. Therefore, Flanders wants sufficient allowances to be provided for free allocation through a bottom-up approach. In this way, the allocation is based only on installation-related data, instead of on a fixed percentage that is used to determine the total amount available for free allocation. If such a bottom-up approach is not followed, it is important that as long as it is not clear whether the cross-sectoral correction factor should be applied, the free allowances foreseen for CBAM sectors are not transferred to the Innovation Fund as proposed by the Commission. These allowances should in the first place be used to avoid the cross-sectoral correction factor. These allowances may also be used to protect exporting CBAM sectors against the risk of carbon leakage. On the other hand, if part of these allowances were to be auctioned, the revenues could also be used to finance an Innovation Fund.

Flanders is in favour of increasing the maximum tightening of the EU wide product benchmarks from 1.6 % to 2.5 %. For the fuel and heat benchmarks, Flanders requests that the maximum tightening remains at 1.6 %. That said, however, it is important that the benchmarks are sufficiently representative.

The European Commission also proposes to replace the current carbon leakage protection system for a number of sectors with a carbon border adjustment mechanism (CBAM). It is crucial that this instrument is workable in practice while at the same time being sufficiently effective. In this sense, Flanders welcomes the fact that the proposal provides rules on monitoring, reporting and independent verification and allows producers to prove their actual emissions. However, it is also necessary to maintain the current level of protection for products not covered by the scope of CBAM, such as products for export or further along the European value chain.

Several impact assessments show that electrification represents an important part of the climate solution for industry. Indirect emission cost compensation is therefore a necessary complement to the direct allocation. However, Flanders proposes to make this a harmonised European instrument financed by European funds. This would ensure a level playing field between different Member States.

All proceeds from a CBAM and from ETS auctions should flow back to the Member States/regions in which these proceeds are generated. The Government of Flanders therefore does not agree to the use of (part of) the auction proceeds as own EU resources. Flanders also disagrees with the proposed increase in the Modernisation Fund. This form of solidarity has been in place for many years and should first and foremost be deployed in a targeted manner. In this context, Flanders welcomes the fact that funds from the Modernisation Fund can no longer be used to finance fossil fuels.

Flanders considers it crucial that there is a continuous focus on the development, demonstration

and scaling up of new technologies such as carbon capture usage/storage (CCU/S), hydrogen, electrification, the use of bio-based raw materials and circularity. In this sense, Flanders supports the inclusion of the proposed Carbon Contracts for Difference mechanism in the Innovation Fund. In doing so, a coherent framework should be developed that recognises the reduction potential of CCU/S technologies while ensuring the environmental integrity of the EU ETS. The Commission's proposal to clarify conditions for CCU/S and to broaden the transport possibilities for CCU/S is a step in the right direction.

Flanders supports the Commission's proposal to phase out free allocation for aviation and calls for this allocation to be abolished even more quickly. Flanders also welcomes the inclusion of shipping in the ETS. For these sectors too need to contribute to the European climate targets.

2.6. Revision of the Renewable Energy Directive

For Flanders, achieving the climate target is a priority, and the various levers (energy efficiency, renewable energy, low-carbon technologies and energy carriers, etc.) must be put to use on a flexible, cost-effective and technologically neutral basis.

Flanders therefore supports the choice not to set binding national targets, as this allows Member States to contribute to the European target in a cost-effective manner. However, this principle should not be undermined by the operation of the enhanced gap-filling mechanism. For the same reason, Flanders believes that the binding sub-targets introduced in the proposal for transport, heat and cooling and renewable fuels of non-biological origin (RFNBO) should be abolished. For this goes against the flexibility needed to achieve climate targets in a cost-effective manner.

Flanders supports the measures for RFNBOs and low carbon fuels insofar as they can contribute cost-effectively to the decarbonisation of sectors such as heavy transport, aviation and shipping over longer distances where they cannot be electrified. The targets for industry RFNBOs are very ambitious and even unrealistic for Flanders in view of its limited renewable energy potential and the presence of significant industrial clusters. This target, which applies mainly to one sector, will create an uneven playing field for industry in Europe, as the impact assessment also points out. For Flanders, the binding target for RFNBOs in industry or transport should therefore be abolished. The uptake of renewable energy in industry or transport should be promoted through a framework of accompanying incentives, without imposing binding targets on industry or transport in general.

With regard to the rules on forest biomass, Flanders strongly supports a sustainable approach that avoids deforestation and biodiversity loss. Flanders also supports the favouring of a more cascaded use of wood, whereby this material is preferably used in the most useful and high-value way, and only in second instance as fuel. In this, it is important to limit exceptions to cascaded use so that this basic principle is not undermined. Flanders also welcomes the expansion of no-go zones to protect the most vulnerable and biodiverse forests and calls for a rapid phase-out at European level of state aid for biomass other than waste and residues.

2.7. Revision of the Energy Efficiency Directive

Flanders welcomes the fact that the Energy Efficiency Directive proposal provides for an indicative national contribution and not a binding national target, so that Member States can contribute to the European target in a cost-effective manner. However, this principle should not be undermined by the functioning of the enhanced gap-filling mechanism.

Flanders does not welcome the fact that a number of measures can no longer be included in the calculation of energy savings. For example, measures relating to direct combustion of fossil fuels can no longer be taken into account, although they currently represent an important part of energy efficiency gains in Flanders. In addition, profits resulting from European policies cannot be included

in the calculation. This could also have a significant impact through the revision of the EU ETS and the proposed ETS for buildings and road transport, as it is not clear how regional measures such as a kilometre charge can still be taken into account for the achievement of the target.

For these reasons, Flanders argues that the binding nature of the energy savings target in the new Article 8 should be abolished and that the measures taken into account for the achievement of the target should not be restricted. In addition, an increase to 1.5 % is unfeasible. In addition, Flanders calls for the administrative complexity of the energy savings obligation to be addressed. This will allow for ambitious and real energy efficiency gains, preserve the level playing field within the EU and enable further sustainable economic growth.

3. DECISION PROPOSAL

The Government of Flanders decides to approve the content of the 'Fit for 55' vision paper.

This vision paper does not imply any financial or budgetary commitment by the Flemish Region or the Flemish Community.

Flemish Minister for Justice and Enforcement, Environment and Spatial
Development, Energy and Tourism,

Zuhal DEMIR