German position on the Fit for 55 package

- Courtesy translation -

The Federal Government welcomes the agreement of the European Parliament and the Council on the European Climate Law, which aims to raise the EU 2030 climate target to a net greenhouse gas emission reduction of at least 55% compared to 1990. The Federal Government recently adopted the draft act to amend the Federal Climate Change Act with which the German climate targets have already been adapted in line with the raised EU target. The goal for 2030 is to reduce greenhouse gases by at least 65% compared to 1990. Furthermore, the reduction target for 2040 is at least 88% and net greenhouse gas neutrality is to be achieved by 2045.

Although a conclusive and comprehensive evaluation and position will be drawn up based on the legislative proposals and impact assessments, the Federal Government would like to highlight the following points in relation to the upcoming Fit for 55 package. We expect the Commission to deliver thorough, comprehensive and substantiated impact assessments with regard to the ecological, economic and social impacts, which also make transparent the cumulative effects for individual sectors/areas of the package:

- The principle behind the European Green Deal is to reconcile climate action with a prosperous economy and society. The Fit for 55 package must provide a suitable framework for the Green Deal to unfold as a new sustainable growth strategy for Europe that is geared towards the climate targets, integrated into open markets and fair international competition based on clear, predictable and multilaterally agreed rules.
- It is key that the mix of instruments reliably limits the maximum greenhouse gas emissions permitted. To this end, we need harmonised instruments at European and national level.
- The Fit for 55 package also needs to provide incentives for innovation. In particular regarding the creation of supportive framework conditions for new greenhouse gas emission-free, safe and sustainable technologies and business models, a coherent cross-sector regulation and clear guidelines, in order to create investment security.
- In addition, the competences of the Member States and technical feasibility must be taken into account. Alongside effective limitation of overall emissions, the mix of instruments must also respond to the specific requirements and needs of the respective sectors and leave Member States the flexibility required for implementation. In particular, the new EU framework, also in conjunction with the new guidelines on state aid for environmental protection and energy, has to support targeted sector- and technology-specific support instruments to enable the investments required under the Green Deal in all necessary long-term technologies at an early stage and in parallel while also allowing sufficient time to adequately accompany the structural change. A one-fits-all solution or state

aid framework which merely allows technology-neutral support based on CO_2-avoidance costs will not meet the various challenges in achieving greenhouse gas neutrality in the individual sectors and Member States. We firmly stand by our rejection of the eligibility of nuclear power plants for state aid.

Effort Sharing Regulation

- We need a framework that ensures all Member States make an appropriate contribution to the implementation of the new 2030 target.
- Particularly for the upcoming reform of the Effort Sharing Regulation (ESR), it is crucial that the principles of fairness and cost-effectiveness are taken into account. It is important that the latter, in particular, is not watered down. Furthermore, it is essential that the efforts of the Member States become more closely aligned in order to reach the 2050 climate neutrality goal. With a view to increasing convergence, the gap between the highest and lowest targets should be narrowed, taking account of the specific circumstances of the Member States. Given that these aspects are included, it seems appropriate to distribute the targets using a formula also based on GDP per capita. These key aspects should be taken into consideration when drawing up legislative proposals. Existing flexibilities between Member States should be retained.
- The ESR with national reduction targets should not affect the efficiency of an emissions trading system for transport and heating.

Emissions trading/carbon pricing/carbon leakage

- An ambitious strengthening of the EU emissions trading system (ETS) is indispensable. To facilitate this, appropriate and lasting protection against carbon leakage must be ensured in the future. The adaptation should take account of the higher climate ambitions in the EU and the dynamically developing level of ambition in third countries.
- In our view, all opportunities and risks potentially associated with the carbon border adjustment mechanism or alternative approaches should be carefully identified and weighed against one another. It is important that the European Commission presents thorough and comprehensive impact assessments for all options discussed. This means for both the classic carbon border adjustment and for an excise duty. In our opinion, these impacts relate to issues regarding the achievement of the climate targets, compatibility with WTO law, practicability, compatibility with international climate agreements, impacts on developing countries and the signaling effect for trade policy.
- Existing instruments to protect against carbon leakage (free allocation and electricity cost compensation) have to be prolonged to an appropriate extent, taking into account international competitiveness. Talks with third countries on joint climate action efforts should begin soon.
- The Federal Government is generally in favour of extending carbon pricing to the transport and heating sectors by including them in a separate system. This requires a number of framework conditions to be considered, including the

achievement of emission reduction targets, the competitiveness of the EU economy and avoidance of carbon leakage, the Effort Sharing Regulation, the EU ETS reform, overall societal distribution effects (in particular social impacts on private households, particularly low-income households and on tenants in EU countries with a large rental market) and regional and sectoral reduction paths. In order to take account of some of these framework conditions, accompanying measures are needed that will require national budgets to be equipped with the necessary resources. The long term goal should be to have a uniform cross-sector carbon price in the EU.

- If the shipping sector is to be included in carbon pricing, developments at the level of the International Maritime Organization (IMO) have to be considered. This must neither call into question the integrity of European climate policy nor the need for emissions reductions. The Federal Government will conduct a final evaluation on the basis of a robust impact assessment.
- The aviation sector also has to deliver a significant, robust and fair contribution to achieving the goals of the Paris Agreement. Therefore, the Federal Government inter alia supports reinforcing the EU emissions trading system in the aviation sector. The revision of the EU Emissions Trading Directive should put an end to free allocation in aviation soon and implement CORSIA. At the same time, to reach the global climate neutrality goals Germany will strongly advocate stepping up efforts in the ICAO. Germany also actively supports the development and use of synthetic aviation fuels (PtL) based on renewable energies.
- Finally, it should be pointed out that the European Council in July 2020 agreed that revenues from a new carbon border adjustment mechanism and a reformed emissions trading system, which would potentially include the aviation and shipping sectors, should serve as a basis for new own resources to contribute to financing the EU budget. The Federal Government will adopt a position on this in light of the discussions on EU's own resources.
- The revision of the Energy Taxation Directive should take into account the importance of the interplay with emissions trading and its extension to transport and heating.

<u>Sector-specific instruments</u>

- The Federal Government believes that a strengthened emissions trading system still needs to be supplemented with sector- and technology-specific measures to secure, at an early stage, the necessary investments in all technologies needed for the long term and support companies and households in their transition. An “ETS only” approach does not adequately address the challenges of the comprehensive structural change that lies ahead.
- The Federal Government is working to ensure that energy-intensive basic material industries have a long-term future in in the EU while developing in a competitive way that is in line with the goal of climate neutrality. A Clean Industry Package is needed that weaves together the reforms of the European Green

Deal, establishes lead markets for green manufactured goods and end products, develops EU state aid legislation in line with the EU climate targets and enables industrial sectors to develop and deploy innovative, climate-friendly technologies on an industrial scale and, in long-term carbon-neutral, ideally carbon-free technologies. By deploying these technologies on a large scale, industrial sectors can contribute to climate action and to European industrial value added. In this context, it is the view of the Federal Government that hydrogen is only sustainable in the long term if it is produced from renewable energy sources ("green" hydrogen).

- The CO_2 standards for passenger cars and light commercial vehicles have a key role to play in achieving the climate targets in the transport sector as they directly influence the specific CO_2 emissions (per km) from new vehicles.
- A reliable trajectory for the yet to be determined revised standards is thus a critical lever for ensuring that road transport makes a significant contribution to greenhouse gas neutrality by the middle of this century.
- In the short to medium term, ambitious standards increase pressure on manufacturers to develop more vehicles with electric drivetrains (battery and hydrogen/fuel cells) as well as to bring them on the market. In light of the growing range offered by non-EU manufacturers, this can strengthen the competitive position of EU car manufacturers on the international market. At the same time, overstimulation can disrupt the value chain if companies are given insufficient time to adapt their technologies. This affects SMEs in particular.
- An update of the standards must be accompanied by an EU-wide scaling up of charging infrastructure. The necessary infrastructure expansion targets and further conditions must be agreed and regularly reviewed inter alia in the course of revising the Alternative Fuels Infrastructure Directive (AFID).
- Depending on the respective level of ambition, flexibilities (at present in particular eco-innovations and super credits for zero and low emission vehicles) and other support instruments should be reviewed and, if appropriate, expanded while taking the climate targets into account.
- Moreover, while openness to all technologies should be maintained, investments in areas that are not profitable in the longer term, or which would lead to higher economic costs, should be avoided.

<u>Land use, land use change and forestry (LULUCF)</u>

- The Federal Government advocates the consistent conservation, strengthening and, where feasible, expansion of natural sinks. The long-term CO_2 storage in long-lived timber products also needs to be taken into account. An impact assessment must be carried out to determine the effects on other ecosystem services and forest functions and identify funding requirements.
- It is the Federal Government's view that more detailed assessments of the potential of natural sinks that can be harnessed sustainably are essential - for

this purpose research and development can provide the necessary source of information.

Energy dossiers:

- A revision of the EU directives on renewable energy (RED), energy efficiency (EED) and buildings (EPBD) and a consistent adjustment of the EU's 2030 targets for renewable energy and energy efficiency to the new EU 2030 climate target is the right way forward, and is explicitly supported by the Federal Government.
- The revisions of the RED and EED should include a holistic, integrated view of efficiency and renewable energy, and this should be retained in the EPBD through the energy performance approach.
- There is an urgent need for more flexible state aid rules so that national funding programmes can be designed efficiently incentivising investment in CO_2 reduction, efficiency and the use of renewable energy.
- At the same time, if the renewables target is to be credible, it is crucial that only genuinely renewable forms of energy can count towards this target. We therefore reject a widening of the RED to include "low-carbon fuels".
- In the view of the Federal Government, the existing target architecture for renewable energy, with a binding EU target and voluntary but reliable national contributions and interim steps which are to be monitored, is in principle suitable for upgrading the target. In principle, this target architecture offers the right balance between reliability and investment security on the one hand and flexibility for the Member States on the other.
- In the electricity sector, the "Common Rule Book" set out in the RED is of central importance for a reliable EU framework for the renewable support systems of the Member States. However, as the targets become more ambitious, more attention will need to be paid to the challenges of implementation. If auctions for renewable energy are temporarily undersubscribed, this must not mean that Member States have to directly reduce the volumes available for bidding; rather, the Member States should then be called on to present an action plan on how investors can be incentivised to present bids and how the availability of sites can be increased whilst taking account of nature conservation.
- The Green Deal necessitates substantial investment in the continued expansion of renewable energy, particularly of onshore and offshore wind, which must take place in harmony with European legislation protecting nature and endangered species. The European Commission is called on to present appropriate proposals which contribute to an acceleration and facilitation of the planning and approval procedures for wind power.
- The crucial factor in practice will be a clear, uniform, and legally secure application of these rules in a planning- and investment-friendly manner. Guidelines or indications from the European Commission can point out how to identify potential additional room for manoeuvre when applying the species

protection provisions of the Habitats and the Birds Directive and can for example be supplemented by national guidelines.

In order to achieve a higher EU 2030 target for renewable energy, it is vital that all sectors make a reliable contribution towards the expansion of renewable energy. The Federal Government therefore in principle supports an increased level of ambition for renewable energy, particularly also in the heat and transport sectors.

- The underlying concern of the RED II that through the expansion of renewable energy no additional demand for land, should be generated, needs to be backed up by corresponding measures. Also, the use of stemwood should be geared towards cascading use so that only feedstock where the quality does not allow its use for long lived products are destined for energy purposes.
- We need an EU framework which supports the effectiveness of the necessary national support instruments for renewable energy. When it comes to designing targets and instruments, it is vital for the measures to be coherent. In principle, we therefore take a critical view of specific RFNBO quotas (Renewable Fuels of Non-Biological Origin) at company level. Not least, such quotas can undermine the effectiveness of national support systems. This can particularly be the case where the trading of RFNBOs means that the renewables target volumes are transferred to the importing country. A sub-quota only seems to make sense for aviation, since this sector has virtually no other options to decarbonise air traffic. In order to support the ramp-up of green hydrogen in industry, however, a benchmark for Member States could be discussed, whereby possible effects on the international competitiveness of European industry need to be taken into account. With regard to potential additional renewables targets, we believe that a technology-neutral approach makes sense. In particular, flexibility should be retained for the Member States as to how and with which instruments they wish to achieve these benchmarks or targets. These include the possibility for trade of RFNBOs between Member States (i.e. transfer of target volumes at Member State level).
- Electricity-based liquid fuels will also be used in specific areas. The Federal Government supports the revision of RED II, also with regard to an EU-wide sub-quota for the use of renewable fuels of non-biological origin (RFNBOs) in the aviation sector.
- The Federal Government also supports an amendment to the EED. As a contribution to the new EU 2030 climate target, a clear increase in the level of ambition and binding nature both of the EU energy efficiency target for 2030 and of the measures to attain the target is needed. Here, the Federal Government believes that an EU-wide reduction in primary energy consumption by 39-41% and of final energy consumption by 36-37% by 2030, as calculated by the European Commission in the 2030 Climate Target Plan, is needed in order to deliver the necessary efficiency-related contribution to the attainment of the new EU climate target.

- The attainment of the EU energy efficiency target by the EU Member States should be stipulated on the basis of a more reliable framework, which could be oriented to, for example, the target attainment mechanisms of the EU´s renewable target.
- The energy savings obligation in the EED should be made more consistent, and the energy saving factor should be adapted to the necessary EU energy efficiency targets. The EED also needs to be strengthened with regard to the regime for heating and cooling. In the case of district heating, consideration should be given to how not only energy efficiency but also a rising share of renewable energy can be incentivised.
- Improvements in the field of energy efficiency should not be restricted to the EED, but should also embrace other EU legal instruments (especially the Ecodesign Directive and the EPBD) and market-based EU instruments.
- The revision of the RED and the EED should, from the outset, be in harmony with the revision of the EPBD. For example, the EPBD's approach has long been to focus on the overall energy performance of buildings, its aim being to improve the buildings' performance in a technology-neutral and flexible manner via enhanced measures to boost energy savings and expand renewable energy shares. When it comes to implementation, the requirements of the directives should be thought through and applied together. Ultimately, a thoroughly consistent and flexible regulatory system is required.
- Building and housing as well as mobility must remain affordable.
- Also, with regard to future legal instruments, it is necessary to bear in mind that the use of natural gas – particularly in efficient gas-fired CHP plants – remains a necessary energy source for a transitional period, especially against the background of the simultaneous phase-out of nuclear power and coal-fired electricity generation. Against this backdrop, a limited amount of investment in gas-fired power stations can be necessary.