



WWF Report

POLICY CONSISTENCY • OCTOBER 2023



Policy consistency for climate – The EU case

Executive Summary

While the EU has made progress in recent years on cutting emissions, the accelerating climate emergency requires much more rapid action in all sectors, and for all EU policies to be pulling in the same direction. In this context, it was extremely important that the European Commission was required under the EU Climate Law to assess, together with the State of the Energy Union, whether “Union measures” are consistent with reaching climate neutrality and, where inconsistencies are found, to “take the necessary measures in accordance with the Treaties”.¹ However, it is very regrettable to see that the European Commission didn't conduct a proper and comprehensive policy gaps assessment and then failed to address counterproductive EU policies.

Based on the outputs of a series of stakeholder workshops², organised with the support of Transport & Environment and E3G and drawing on analysis by the Ecologic Institute, WWF has identified the following EU policies as particularly inconsistent with EU climate goals, meaning that they are actively hindering rapid decarbonisation.³

1. **EU bioenergy policies.** Although the justification given for them is explicitly climate-based, bioenergy policies in the revised Renewable Energy Directive will continue to incentivise the burning of trees and crops for energy, and on balance are therefore likely to be accelerating climate change rather than slowing it down. The harm they cause is magnified because of the extent to which they are relied upon in other EU policies, for example the ETS, the ESR, ReFuelEU Aviation, FuelEU Maritime and the sustainable finance taxonomy.
2. Large parts of the **Common Agricultural Policy (CAP)**, in particular those which encourage the consumption and production of animal products, that maintain practices that lead to high emissions of soil carbon, or that prevent the restoration of land and resulting carbon sequestration benefits.
3. **The Energy Taxation Directive**, on the grounds that at present, and pending the outcome of negotiations on its revision, it in practice prevents the effective taxation of aviation kerosene.
4. **The inclusion of fossil gas and nuclear in the Sustainable Finance Taxonomy**, which is encouraging investment in new fossil gas-fired and nuclear plants. This in turn is diverting available financial resources

¹ See article 6.2 (a) and 6.3 of the [European Climate Law](#).

² Workshops were held on the power, industry, transport, and agriculture and land use sectors. No workshop was held on buildings sector, given the central importance in this regard of the Energy Performance of Buildings Directive, negotiations on which are still ongoing.

³ The assessment presented here is based solely on climate impacts, rather than other environmental or socio-economic factors.

from technologies which are genuinely low carbon and/or provide cheaper and faster means of cutting emissions.

5. **Free allocation of emissions allowances under the EU Emissions Trading System (ETS).** This ongoing failure to apply the 'polluter pays' principle to heavy industry has resulted in little to no change in industry emissions, or investment in less polluting industrial processes, and even under the revised ETS looks set to cost nearly half a trillion euro in forgone revenues over the 2021-2030 period.
6. **"Flexibility" (i.e. offsetting)** between the Land Use, Land-use Change and Forestry (LULUCF) sector and the sectors covered by the Effort Sharing Regulation (ESR). Net removals in the LULUCF sector are hard to measure and not necessarily permanent, and cannot be treated as tonne-for-tonne equivalent to fossil fuel emissions or non-CO₂ emissions in the agriculture sector.

In addition to those highlighted above, there are a large number of other EU policies that, while not actively counterproductive in climate terms, are in need of improvement or reform, and areas in which there are significant gaps. These include for example:

- The lack of an EU ban on **fossil fuel subsidies**, and other restrictions on the fossil fuel industry in the EU, for example a ban on new exploration and drilling, a ban on the industry's use of advertising and sponsorship, and phase out dates for the use of different fossil fuels.
- In many sectors, there is a lack of focus on **demand-side measures**. Higher targets and more effective policies are needed to drive energy demand reduction and demand-side response, and to promote a more resource-efficient and circular economy.
- Many areas in the EU face **electricity grid constraints**, including in distribution networks, transmission systems and interconnection, and significant further effort is needed on this front to facilitate the decarbonisation of the EU's power supply and the electrification of other sectors.
- There is a major issue related to the ownership of **international shipping and aviation emissions**. Both intra-EU and extra-EU maritime emissions - from every vessel, no matter their size - should be brought within the scope of the EU ETS, along with extra-EU aviation, given the significant impact both sectors have on the level of overall climate targets required.
- The current **target for the LULUCF sector** falls well short of delivering what the sector could and should contribute to helping stop runaway climate change, both in the period up to 2030 and beyond.

It should be noted that the workshops (and hence this report) have not included consideration of broader funds allocation from the current MFF and NextGeneration EU and their related spending at Member State level. This includes the European Regional Development Fund (ERDF), European Social Fund+ (ESF+) and Cohesion Fund (CF) as well as other significant funds such as Horizon Europe (research and development), and the Connecting Europe Facility. But all EU funding should in principle be scrutinised carefully to assess whether it is consistent with achieving climate goals.

Introduction

The European Commission was required by Regulation (EU) 2021/1119 establishing the framework for achieving climate neutrality (commonly known as the EU Climate Law) to publish an assessment, together with the State of the Energy Union, on whether “Union measures” are consistent with reaching climate neutrality by 2050, and, where inconsistencies are found, to “take the necessary measures in accordance with the Treaties”.

In advance of this assessment, the WWF European Policy Office - with the support of Transport & Environment and E3G and drawing on [analysis](#) by the Ecologic Institute - organised a series of technical stakeholder workshops with the aim of assessing whether existing EU policies were consistent with the emissions trajectory required in the main sectors covered in UNFCCC reporting. Four sectors were addressed, namely power, industry, transport, and agriculture and land use. No workshop was held on the fifth main sector, buildings, given the central importance in this regard of the Energy Performance of Buildings Directive, negotiations on which are still ongoing.

The approach taken in each workshop consisted of discussions on the following:

- **The destination:** attendees were presented with a review by Climate Analytics addressing the following questions: Based on recent modelling, what does reaching climate-neutrality in the EU imply for the sector in question? What are the generally accepted physical and behavioural changes involved, and where are there still uncertainties?
- **Relevant policies and measures:** attendees were invited to comment on a list of existing EU policies or measures that had a material impact, either positive or negative, on the decarbonisation trajectory of the sector in question.
- **Assessment of policy consistency:** attendees were asked to consider whether the policies identified were aligned with and sufficient to meet the trajectory identified, whether any of them were in need of improvement - or even were counterproductive - and if so what changes and/or new policies if any were needed.

Invitees included representatives from civil society, academia, the private sector and European institutions. Those who were invited but were unable to attend the relevant workshop were given the possible subsequently to provide comments in writing. The background papers prepared by Climate Analytics for each sector can be found [here](#). Full details of the discussions which were held under Chatham House rules can be found [here](#).



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Summary of findings by sector

This section provides a summary of the most important findings from the workshops that WWF organised with the support of E3G and T&E. Its contents do not necessarily reflect the positions of those organisations.

Power sector

Significant progress has been made in recent years in decarbonising the EU's power sector, thanks partly to rising ETS prices, dramatic falls in the cost of wind and solar power and efforts by the European Commission's Directorate General for Climate to improve the transparency and operation of carbon markets. But while things are heading in the right direction, the pace of change needs to accelerate, and there are a number of EU policies that are actively hindering progress.

For example, the ongoing inability to reach an agreement to reform the **Energy Taxation Directive** means that electricity may continue to be subject to higher taxes or levies than fossil fuels such as gas in many Member States, and that financial incentives are not therefore aligned with climate objectives. Similarly, the fact that co-generation based on fossil gas is still incentivised under the **Energy Efficiency Directive** will continue to hinder the rapid phase out of fossil fuels in the power sector as a whole.

Of particular concern is the **EU's sustainable finance taxonomy**, which encourages investment in new nuclear plants, and gas-fired power plants that could run until 2035, and continue operation thereafter (albeit, if not using 100% zero-carbon gases, without the 'green' label). As the taxonomy is likely to play a role in a variety of settings from EU budgets and state aid to green public procurement, the creation of financial products and green loans and bonds, the potential ramifications for the power sector could be substantial. This element of the taxonomy risks diverting available financial resources from genuinely green and urgently needed technologies, including wind and solar power, electricity storage, and grid expansion and interconnection. Evidence of the controversy surrounding the taxonomy's criteria on gas-fired plants is the fact that five different lawsuits aimed at annulling these criteria are ongoing in the European Court of Justice.

The EU's **2030 REPowerEU target for renewable hydrogen use** has been criticised for being too ambitious, and is potentially inconsistent with rapid progress on climate goals. While green hydrogen certainly has a role to play in a decarbonised energy system, setting too high a target in the near term could lead to electricity being diverted to hydrogen production when its use in direct electrification would be a more efficient and faster means of reducing fossil fuel use.

In addition to resolving the issues identified above, there are a number of areas in which EU policies affecting power sector decarbonisation, while not necessarily inconsistent with that goal, are either missing or in need of significant reinforcement. Most obviously, **the lack of a cross-cutting EU ban on fossil fuel subsidies**, and its effective application throughout EU and Member State policies, is a major gap. Banning the fossil fuel industry's use of advertising and sponsorship in the EU is also needed, along with a ban on future exploration and extraction.

Another example of where progress needs to be accelerated is in developing necessary electricity grid infrastructure, for example in terms of the capacity and/or modernisation of distribution networks, transmission systems and interconnection and the shift to more digitalised grids. Indeed, there is a need for significant improvement in - and a holistic approach to - power sector planning. While a ten-year network development plan and resource adequacy assessments exist, such processes are still not integrated. Greater engagement with regional authorities, particularly in the context of planning, is necessary to address governance gaps and enhance legitimacy and social acceptance. This would also help speed up permitting procedures.



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To a large extent the decarbonisation of the power sector depends heavily on **demand side measures**, whether in industry, transport or buildings, and in terms of both demand reduction and demand side response/flexibility. But there are significant concerns as to whether policies in these areas will deliver. On this point, it is important to highlight that the European Scientific Advisory Board on Climate Change (ESABCC) advice on the EU 2040 target includes 3 pathways, of which 2 underline the need to increase ambition significantly before 2030 on energy demand reduction.

Last but not least, the transition to a decarbonised power system, as with the transition to a decarbonised economy more broadly, will dramatically transform our societies, economies, industries, and the way we produce and use energy. The EU should therefore establish the same strong links and the same level of coordination between climate and social policies as between climate and energy policies.⁴ For a rapid shift to renewable power generation, policies ensuring widespread training and reskilling programmes are required, both to meet the increased demand for skills in the clean power sectors and to support the employment transition for workers from fossil fuel industries. Access to affordable clean power also needs to be ensured via targeted policy measures, the energy transition must not increase social inequality, but instead should be an opportunity to tackle energy poverty.

Industry sector

Unlike the power sector, emissions from the industry sector have essentially stagnated over the last decade. A lack of investment and a focus on protecting incumbent market players mean the EU has failed to seize the opportunities presented by new, clean technologies, and in some sectors is now at risk of losing out to competition from overseas.

A prime example is the **allocation of free emissions allowances under the EU ETS** to heavy industry, which covered more than 50 % of that sector's emissions between 2013-2020⁵ - a failure to apply the polluter pays principle that has resulted in little to no change in industry emissions or investment in less polluting industrial processes. Even under the revised ETS, and despite the introduction of the CBAM, big polluters will continue to receive allowances worth an estimated €460 billion, based on current prices, between 2021 and 2030.

As with the power sector, there is also a serious gap on the demand side. There needs to be much greater emphasis on **demand/resource reduction** to ensure that climate targets are met, starting with (but not limited to) more circular economy measures (especially in crucial policy areas such as the Construction Products Regulation or the Ecodesign for Sustainable Products Regulation). To take one example, modelling of net zero pathways suggests we need to produce far fewer cars, enabled through changes in behaviour such as car sharing schemes, public transport improvements, and so on. This issue is not helped by the fact that industrial decarbonisation policies (for example those covered by the Fit for 55 package) and circular economy measures (situated within the Circular Economy Action Plan (CEAP)), essentially operate in separate bubbles. There are only limited links between the relevant dossiers and the expert communities involved in them.

Sectoral roadmaps for industry sectors and sub-sectors could also be valuable but to date have not been developed to any significant extent, and will need to be joined up rather than developed in isolation, in order to avoid different industries all counting on using the same limited resources (such as renewable hydrogen, scarce biomass resources and so forth). These roadmaps should be science-based and include civil society input. On

⁴ Council of the European Union, "Council Recommendation on ensuring a fair transition towards climate neutrality", *Official Journal of the European Union*, 9107/22, 7 June 2022.

⁵ WWF European Policy Office, "Where did all the money go? WWF report analyses how Member States spent their ETS revenues", WWF, 29 November 2022, available only: <<https://www.wwf.eu/?8275441/ETS-revenues-report-2022>>.



the same note, it is concerning to see that current National Energy and Climate Plans (NECPs) do not provide sufficient details on industrial decarbonisation and focus mostly on non-ETS sectors.

Green public procurement has been largely neglected in recent years at EU level, even though public investment affects a significant portion of the construction market as well as a non-negligible part of vehicle markets (two material-intensive markets). Reforms to strengthen rules in this area would be beneficial.

The social implications of the transition to a decarbonised industrial sector will be huge in certain sectors and regions, and EU (and national) policies still fall far short of what is required in this regard. The closure or transformation of carbon-intensive industrial plants, and the development of new clean industries, imply major changes in labour and skills requirements. It is essential to ensure training and job-search support, sufficient basic services for migrating workers and households, significant investment in new industries in disadvantaged areas, and adequate social protection systems to support communities in transition. A failure to ensure that industrial policy is supported by robust social policy risks creating both negative social impacts and public backlash against EU / national climate policies in general.

Overall, and given the gap between the EU's current suite of policies and the scale of transformation required in the industry sector, **the EU urgently needs a coherent industrial strategy** that not only achieves climate goals and applies the polluter-pays principle but also promotes investment in the right technologies, seizes the opportunities that are available in future industries, and ensures a fair and prosperous future for all citizens and communities involved.

Transport sector

In the transport sector, the EU policy that is most obviously inconsistent with climate goals is the **Energy Taxation Directive** (at present, and pending the outcome of negotiations on its revision), on the grounds that it prohibits the taxation of commercial aviation fuel, except for commercial domestic flights or by bilateral agreement between Member States. Ongoing international progress on this front in the International Civil Aviation Organisation is very weak, meaning that in all European Union countries, commercial aviation fuel is tax-free. The EU should at the very least include kerosene in the Energy Taxation Directive for intra-European flights, although strong international-level regulation would reduce the complexity of the regulatory framework operators face. The same applies to the maritime sector, where progress from the International Maritime Organisation is also weak.

The Air Services Regulation - and especially Article 20 - should also be amended to clearly define what measures Member States can put in place and under what conditions to ban short haul flights. The concept of "serious environmental problems" highlighted in the regulation is vague, as is the definition of an "alternative mode of transport", which should focus on cleaner alternatives.

For all forms of transport, there are very serious climate-related problems with the **EU's policies on bioenergy**, which are set out in the Renewable Energy Directive (RED) (these are covered below in the section on agriculture and land use policies). But the RED is also problematic in other transport-related respects. For example, even though it sets a sub-target for the renewable share in the energy mix of the transport sector, it should go further and explicitly exclude inefficient uses of certain renewable energy carriers, in order that it encourage the deployment of the right solutions in the right sectors (for example encouraging the burning of e-fuels in cars, as opposed to in hard to abate forms of transport such as aviation, is neither energy efficient nor consistent with a cost-effective approach to decarbonisation). The EU should also increase its target for the use of renewable fuels that are produced using on-biological sources (RFNBOs) in aviation and shipping.



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In relation to **international shipping and aviation**, it is extremely urgent that the EU takes measures regarding the ownership of these emissions, since they have a significant impact on the overall climate targets required (as explained in section 5.3 of the ESABCC's quantitative advice on the 2040 target). This means that both intra-EU and extra-EU maritime emissions - from every vessel no matter their size - have to come into the scope of the EU ETS, as well as extra-EU aviation (including their full climate impact, i.e. aviation's non-CO₂ effects). On the maritime sector, and more specifically regarding the ETS for shipping, the impact assessment was clear in showing that there wouldn't be any significant in-sector emissions reduction before 2030, because of allowances available from other ETS sectors.

While the 2035 phase out of new ICE vehicles is crucial, and represents a major step in the right direction, a loophole in the car **CO₂ emissions standards** – although one of the EU's most effective pieces of climate legislation - has perversely rewarded carmakers for selling bigger, heavier cars (e.g. SUVs) - affecting energy demand. Although the principal reason for the recent growth in SUVs has been carmakers seeking to maximise short term profits, under the current CO₂ regulation for cars, carmakers that sell heavier premium models are allowed to emit more CO₂ via the so-called mass adjustment of each carmakers' CO₂ target. This loophole is not justifiable on climate, social justice, or technological grounds and removing it would help push the larger and more polluting segments to electrify more rapidly, in line with their potential and heavier climate impact and remove an additional incentive to sell more SUVs. The CO₂ emission standards for HDVs (pending the outcome of current negotiations) are at present also in need of being strengthened.

Action is also required to accelerate the electrification of **corporate fleet vehicles**. Six out of ten new cars sold in Europe are corporate vehicles. The market is so large because many nations provide generous company car tax breaks. Given their short ownership period and high mileage, corporate car fleets have huge potential to rapidly accelerate electrification and transport CO₂ emission savings. And yet, companies are doing worse than citizens on electric car uptake. Company car electrification is the biggest untapped opportunity to cut oil use and emissions fast. The EU should introduce binding targets for large corporate car and van fleets to go fully electric by 2028 at the latest.

As with the power and industrial sectors, additional policies and measures are required urgently to **improve the efficiency of transport systems and to reduce demand**, beyond changes in technology. There should be more incentives to facilitate the huge changes in lifestyles, behaviour and modal shifts required to decarbonise the transport and related sectors, from better public transport within and between cities and regions to car sharing schemes and cycling.

Finally, some European countries have massively **constrained electricity grids**, which is a major issue for the transport sector. The EU needs a European-led major policy initiative to enable the near-full electrification of road transport and the deployment of low-carbon fuels based on renewable electricity for aviation and shipping. Infrastructure has a key role to play here, and permitting for charging infrastructure still in some cases takes a long time - for example due to Distribution System Operators or a lack of administrative capacity in competent authorities.

Agriculture and land use sectors

In the agriculture and land use sectors, the most significant EU policy is of course the CAP. While it absorbs around a third of the EU's total budget, it is largely - and in many cases directly - inconsistent with climate goals. While there may be justifiable non-climate-related reasons for some of its spending, a dramatic shift in what it incentivises would be required in order to bring it into line with the reality of the climate emergency, which is hitting farmers harder and earlier than those in almost any other EU sector.



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Some examples of the ways in which the CAP is either actively counterproductive or seriously deficient on climate grounds include the following:

- CAP payments continue for the cultivation of drained organic soils, a major source of CO₂ emissions, and farmers lose payments if they stop cultivation and rewet such soils;
- CAP coupled support for livestock (especially ruminant livestock). Livestock farming also benefits to a significant extent from investment aid under the second pillar;
- Subsidies for protein crops (that have massively increased) are essentially subsidies to the livestock industry;
- The CAP's area-based direct payments maintain or even foster the expansion of agricultural land at the expense of forest and grasslands;
- Payments for areas facing natural or other specific constraints (ANCs) encourage continued cultivation of marginal land (often involving ruminant grazing) including in areas that would support forest) preventing restoration or natural regeneration that would sequester carbon;
- There are few if any CAP policies aimed at reducing demand for animal products, and indeed a small amount of EU funding is still spent on actively promoting their consumption (this gap needs to be filled in order that demand for animal products not simply be met by increased imports);
- Rules on good agricultural and environmental conditions (GAECs) are not properly implemented and are subject to significant flexibilities that have negative climate impacts;
- Farmers don't pay taxes on diesel in most of Europe, which is a significant and underappreciated driver of intensification.

Perhaps the most egregious example of EU policies in the agriculture and land use sector is **EU bioenergy policies**, which even with the very modest recent reforms to the RED will continue to incentivise sources of bioenergy that increase emissions compared to fossil fuels, and are therefore completely inconsistent with climate goals. Specifically:

- The **RED** will continue to incentivise the dedicated use of land for biofuel, biogas and other energy crops, despite that being counterproductive in climate terms compared to using such land for food or feed production or carbon sequestration (whether through active reforestation, forest restoration or natural succession). The only restriction is a cap on the use of food and feed crops for biofuels in the transport sector, which itself should be reduced to zero. During the most recent negotiations on the RED, even a proposal to phase out palm and soy biofuels – which are linked to the clearance of forests and the conversion of peatlands – was rejected.
- The RED will continue to incentivise the burning of primary woody biomass such as tree trunks and branches taken from forests, even though the JRC and others have made clear that burning such (coarse woody debris), even though it may have no commercial value in terms of 'cascading use', will increase emissions for decades or even centuries compared to fossil fuels.
- The completely inadequate bioenergy criteria in the RED are also relied upon as a basis for other EU policies, including the ETS, the ESR, the sustainable finance taxonomy, and to a marginally lesser extent in ReFuelEU Aviation and FuelEU Maritime.

As regards other significant EU policies in this area, the revised **LULUCF** Regulation represents a modest improvement on the existing one, in that the accounting rules for forest land should, from 2026 onwards, avoid the 'baking-in' of historical levels of emissions and/or harvesting and so more accurately reflect the emissions and removals that are 'seen' by the atmosphere. However, the 2030 target of -310 MtCO₂ - even before considering the 'flexibilities' insisted upon by Member States within the LULUCF Regulation - is based on (Primes) modelling that assumes a given level of biomass use in the energy sector and (Globiom) modelling that assumes little carbon opportunity cost of using marginal land for the production of energy crops.



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The revised LULUCF Regulation therefore falls well short of delivering what the sector could and should contribute to helping stop runaway climate change, and certainly doesn't offset the incentives created by the RED to burn (or indeed import and burn) biomass for energy. Another problem is the fact that Member States are allowed to use excess removals in the LULUCF sector to **offset emissions covered by the Effort Sharing Regulation**. Net removals in the LULUCF sector are hard to measure and not necessarily permanent, and should not be treated as tonne-for-tonne equivalent to fossil fuel emissions or non-CO₂ emissions in the agriculture sector. This 'flexibility' risks undermining climate action and should be deleted, in order to maintain a clear separation between emissions and removals in the land use sector and emissions in other sectors.

Finally, but also very significantly, there has been very **poor enforcement of the Birds and Habitats Directives**, with only around 15% of forest habitats currently having favourable conservation status, with consequent negative impacts on the sequestration and resilient storage of carbon in natural ecosystems

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