The EU Green Deal: challenges and opportunities 1st Part

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The Green Transition
Soft Law Approach

Green Deal

+ **Industry:** Industrial; Chemicals strategy
+ **Transport:** Sustainable and smart mobility
+ **Finance:** Renewed sustainable finance
+ **Forest; Biodiversity; Agriculture**

=> 'Fit for 55'


The European Green Deal
CLIMATE PACT AND CLIMATE LAW
INVESTING IN SMARTER, MORE SUSTAINABLE TRANSPORT
STRIVING FOR GREENER INDUSTRY
ELIMINATING POLLUTION
ENSURING A JUST TRANSITION FOR ALL
FINANCING GREEN PROJECTS
MAKING HOMES ENERGY EFFICIENT
LEADING THE GREEN CHANGE GLOBALLY
FROM FARM TO FORK
PROTECTING NATURE
PROMOTING CLEAN ENERGY

Paradigmatic shift

- the sheer breath of the green transition given that it ranges from the energy transition to the restoration of ecosystems,
- the speed with which the green transition is unfolding given that a reduction of 55 % of GHG emissions must be achieved by 2030,
- the binding nature of the legislative acts (directives and regulations) that flesh out the non-binding Commission's Strategies,
- the complementarity of the internal and external action in order to reduce the EU's footprint.

I. Key Approaches

1. Climate change - ‘Fit for 55’
2. Energy -‘Fit for 55’

II. Funds

III. Critical Remarks

1 Climate Neutrality Challenge

Climate law - Regulation (EU) 2021/1119 establishing the framework for achieving climate neutrality

Main narratives

- Economic growth decoupled from resource use
- Fair and inclusive transition
- Protecting, preserving and enhancing the natural heritage
- Protecting the health and well-being of citizens from environmental risks

1. CC component of the Fit for 55

Increases the EU's climate target for 2030 to up to 55% compared to 1990 levels and attain climate neutrality by 2050.

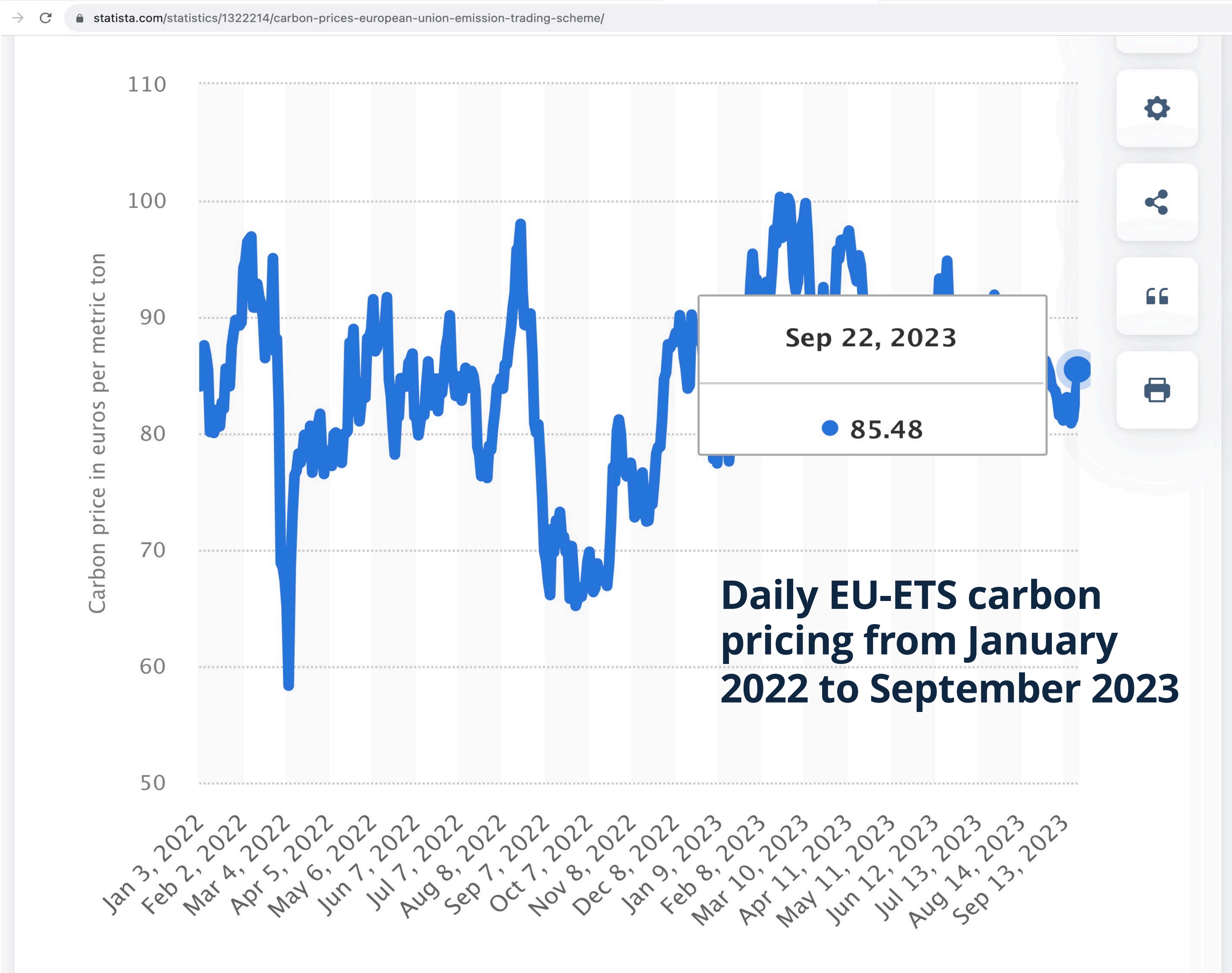
- Revision of the Emissions Trading System (ETS) Directive 2003/87
- Revision of the Effort Sharing Regulation (ESR)
- Revision of the Regulation on the inclusion of GHG emissions and removals from land use, land use change and forestry (LULUCF)
- Adoption of a Regulation on Carbon Border Adjustment Mechanism (CBAM)

1.1. Emissions Trading System (ETS)

- The EU ETS is currently the key instrument of EU climate policy, covering around 40% of GHG.
- This mechanism operates on the basis of the law of supply and demand.
- Operators of fixed installations and aircrafts must purchase allowances on the market (auction sales or can benefit from allowances allocated free of charge (carbon leakage).
- The introduction of a cap, and therefore a reduction in GHG allowandes, leads to scarcity of allowances and therefore an increase in their price (close to 100 euro 28/2/23 ; 85 euro Sept 22nd).

1.1. Emissions Trading System (ETS)

10,000 installations in the energy sector and manufacturing industry



Daily EU-ETS carbon pricing from January 2022 to September 2023

1.1. Emissions Trading System (ETS)
Aviation

Carbon leakage: Operators of aircrafts can benefit from emission allowances allocated free of charge (without having to buy them at auction sales) in order to cover their CO_2 emissions.

Directive (EU) 2023/958 of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure

Suppression of allowances allocated free of charge to airlines for intra-EU flights according to a set timetable: 25% in 2024, 50% in 2025 and 100% from 2026.

1.1. Emissions Trading System (ETS)
Aviation

Intra-EEA flights

- Fully subject to **ETS**
- cancelling free allocations for **aviation**
- linear reduction factor of aviation allowances in accordance to the ETS Directive

Extra-EEA flights

- **CORSIA** (*Carbon Offsetting and Reduction Scheme for International Aviation*)

Directive (EU) 2023/958 of 10 May 2023 as regards aviation's contribution to the EU ETS

1.1.Emissions Trading System (ETS)

Maritime transport

Emissions Trading System (ETS)
Maritime transport

- CO_2 emissions from maritime transport account for around 3 to 4 % of EU GHG emissions.
- The EU ETS should contribute significantly to reducing GHG emissions from maritime activities
- The extension of the scope of Directive 2003/87/EC to maritime transport will lead to changes in the cost of such transport.
  - **Directive (EU) 2023/959 of 10 May 2023**

1.1. Emissions Trading System (ETS)

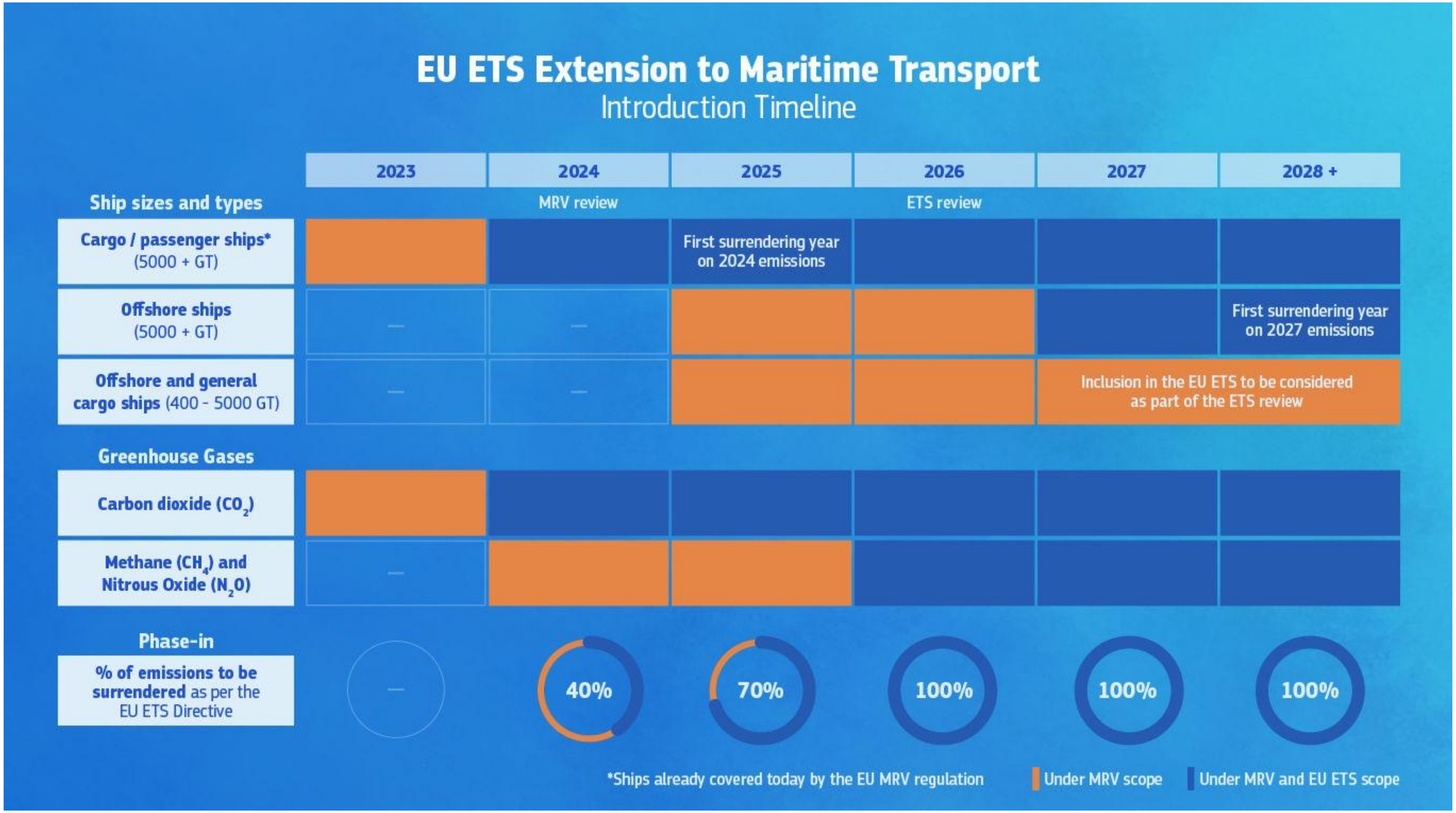
Maritime transport

+ Extension of **ETS** to **maritime transport**

Ships operating within the EU will have to buy allowances covering their GHG emissions, while ships departing from or arriving in a MSt (and therefore arriving from or departing from a country outside the EU) will have to pay half of their emissions.

By 2025, 40% of the freight will be covered, rising to 70% by 2026, with the aim of making all ships subject to the ETS by 2027.

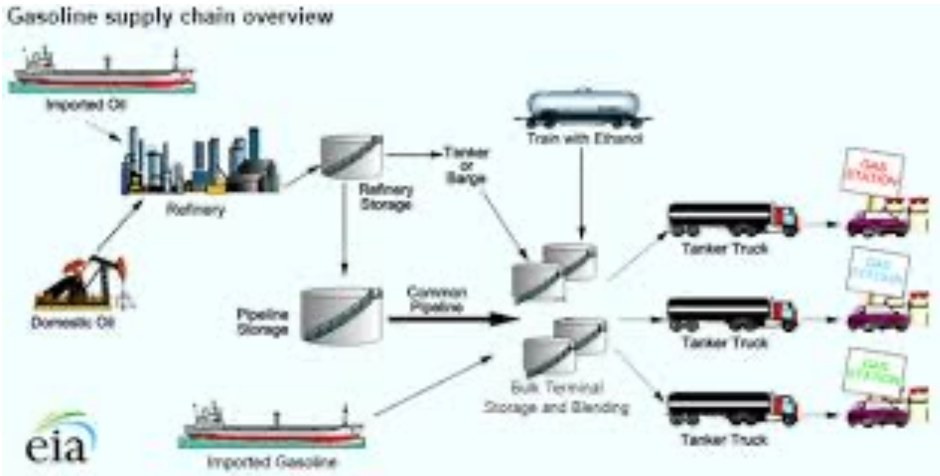
1.1.Emissions Trading System (ETS) Maritime transport



1.1.Emissions Trading System (ETS)
Extending the carbon market to heating and cars

Fuel, gas and heating oil suppliers will be obliged to buy allowances (auction sales) to cover their GHG emissions.

They will pass on these additional costs to households.

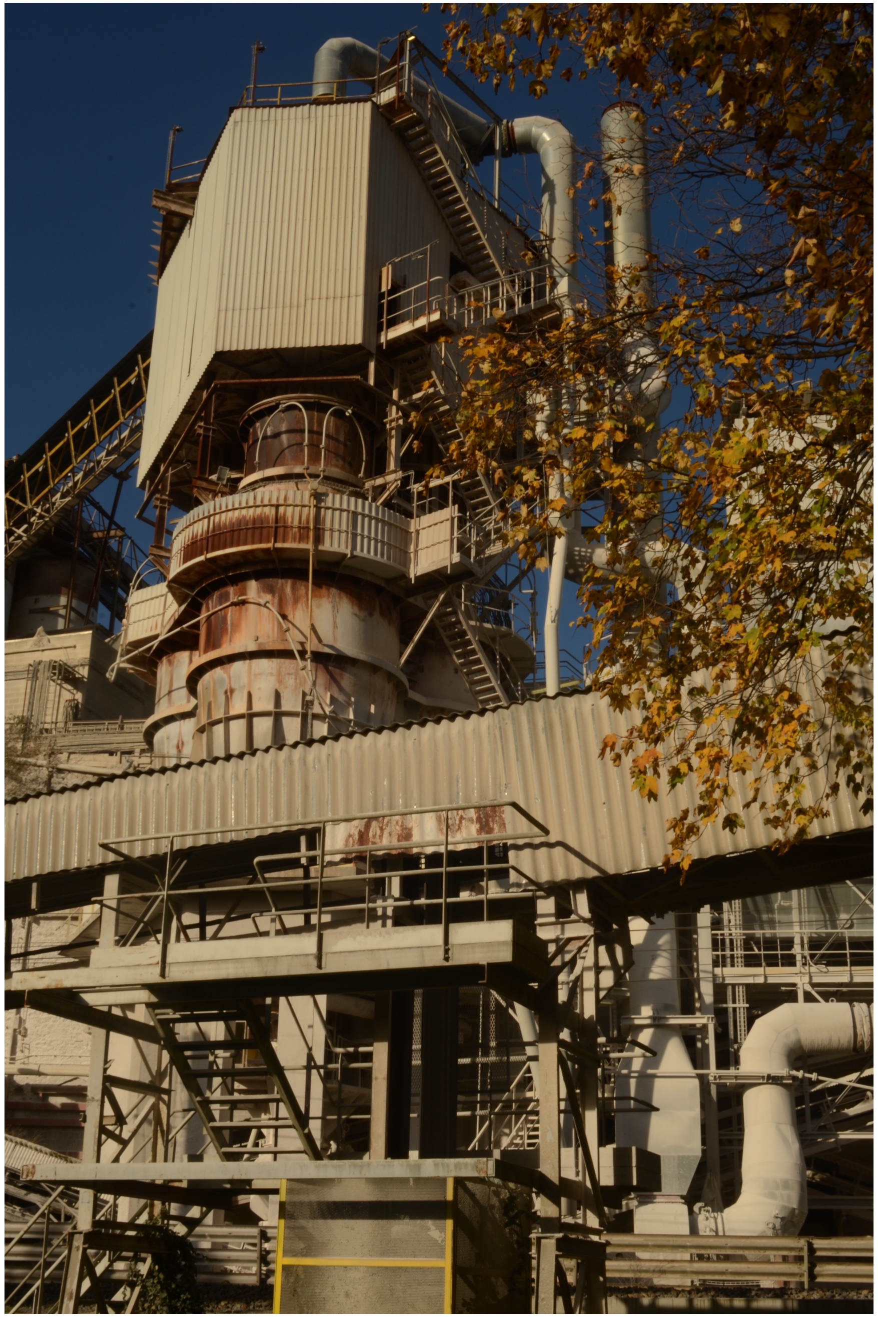


1.2. CBAM

Carbon leakage: Operators of fixed installations and aircrafts can benefit from emission allowances allocated free of charge (without having to buy them at auction sales) in order to cover their CO2 emissions.

Carbon border adjustment mechanism for selected sectors (steel, fertilizers, aluminium and cement), to reduce the risk of **carbon leakage**

→ Regulation (EU) 2023/956 of 10 May 2023 establishing a carbon border adjustment mechanism



The primary objective of CBAM is to prevent carbon leakage. As such, it complements the Emissions Trading Scheme (ETS).

CBAM works in the same way as the EU ETS, because each year importers will have to declare the emissions contained in their imports and surrender enough certificates to cover all the emissions imported.

To cover emissions, importers must thus purchase CBAM electronic certificates, not allowances, corresponding to one tonne of in situ emissions.

1.2. CBAM

The major difference with EU ETS is that the certificates cannot be traded by economic agents and there is no cap.

1.3. Effort Sharing Regulation (ESR)

ESR establishes binding annual greenhouse gas emission targets for Member States for the periods 2013-2020 and 2021-2030.

The ESR currently covers all GHG emissions which are covered

+ neither by the EU Emissions Trading System (**ETS**)
+ nor by the Regulation on Land-Use, Land-Use Change and Forestry (**LULUCF**).

1.3. Effort Sharing Regulation (ESR)

ESR targets concern emissions from various sectors:

1. transport (except aviation and non-domestic shipping),
2. buildings,
3. agriculture,
4. industrial installations and gases not covered by the EU ETS
5. waste as well as non-combustion related emissions from energy and product use.

1.3. Effort Sharing Regulation (ESR)

ESR legislation was adopted in 2018 to deliver a 30% reduction in GHG emissions covered by 2030 compared to 2005.

Insufficient contribution to an overall target of at least -55% compared to 1990 (European Climate Law).

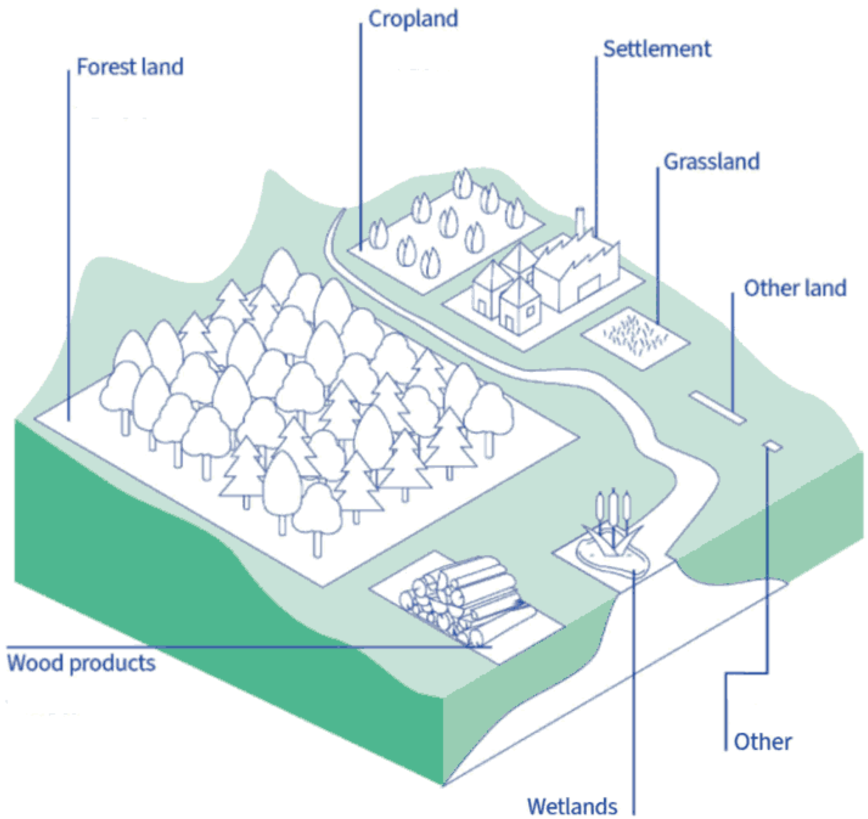
1.3. Effort Sharing Regulation (ESR)

Regulation (EU) 2023/857 of 19 April 2023 amending Regulation (EU) 2018/842 on binding annual GHG emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement

Fulfilling the Union's target of reducing its greenhouse gas emissions by **40 %** below 2005 levels in 2030.

Co2 emissions from buildings subject to binding annual GHG targets for each MSt

1.4. LULUCF Regulation



Carbon sinks and sources

1.4. LULUCF Regulation

The most readily available way to increase carbon sequestration is to protect and restore forests, peatlands, and other natural ecosystems.

"No debit" rule: EU Member States have to ensure that accounted GHG emissions (debits) from land use, land use change or forestry are **balanced** by at least an equivalent accounted removal of CO_2 from the atmosphere (credits) in the period 2021 to 2030.

1.4. New LULUCF Regulation

Regulation (EU) 2023/839 of 19 April 2023 amending Regulation (EU) 2018/841 as regards the scope, simplifying the reporting and compliance rules, and setting out the targets of the Member States for 2030

Phase 2 from 2026 to 2030: This phase enlarges the territorial scope to cover all managed land and introduces the **EU-wide target of -310 Mt CO_2 equivalent of net removals** by 2030.

This represents an increase of about 15% in the EU's net removals compared to current levels and reverses the declining trend in net removals seen in recent years.

1.4. New LULUCF Regulation

The **scope is extended** from only forests today to

all land uses (including wetlands by 2026).

2. Energy component of the Fit for 55' legislative package

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- **Energy Taxation** Directive (postponed)
- **Renewable Energy** Directive (REDIII) (2018/2001/EU): from 32% to **40%** of renewables by 2030
- **Energy Efficiency** Directive (2023/1721/EU)

2.1. Recast of the EED

Directive (EU) 2023/1791 of 13 September 2023 on energy efficiency

MSt are required to achieve cumulative end-use energy savings for the entire obligation period (running from 2021 to 2030), equivalent to new annual savings of

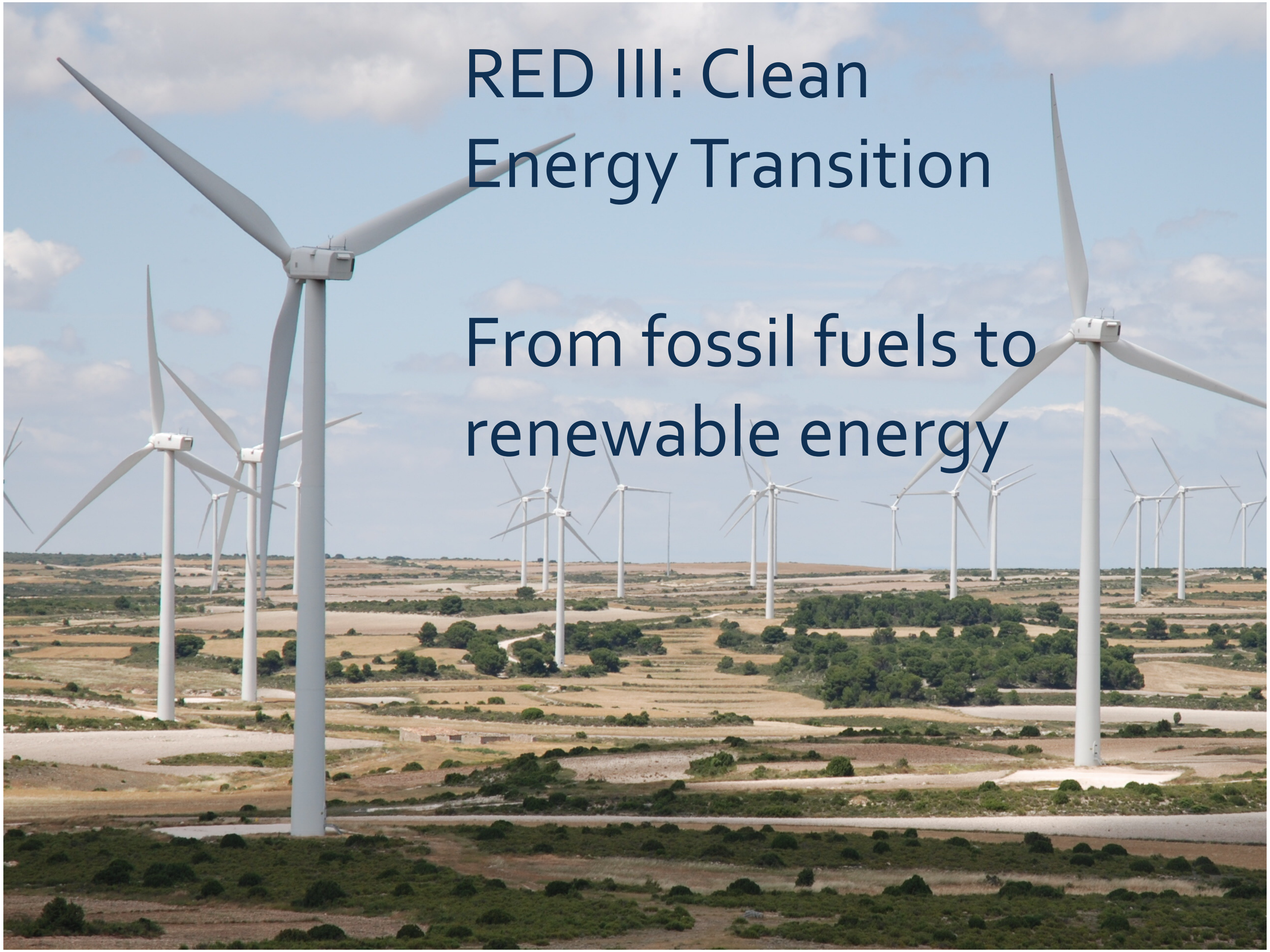
+ at least 0,8% of final energy consumption in 2021-2023,
+ at least 1.3% in 2024-2025,
+ 1.5 % in 2026-2027
+ 1.9 % in 2028-2030.

2.2. Renewable energy sources (REDIII)

- **RED II** = At least 32 % of the EU's energy consumption must come from renewable energy sources (RES) by 2030.
- **New RED III** = new EU target of a minimum 40 % share of RES in final energy consumption by 2030.
- Doubling the share of RES in the energy mix for **2021-2030.**

RED III: Clean Energy Transition

From fossil fuels to renewable energy



2.3. Promotion of the use of energy from renewable sources

Directive 2009/28, Art. 3(1) and (3) share of energy from renewable sources in gross final consumption of energy meets the national overall target. MSt may reckon upon '**support schemes**'.

M St have discretion to adopt, alter or withraw those provided that they don't breach Articles 16-17 EUCHR.

- Cases C-798/18 and C-799/18, *Athesia Energy Srl;* Order 1st March 2022, Cases C-306/19, C-512/19, C-595/19, and C-608/18 to C-611/18, *Milis Energy*

Commission's State Aids Guidelines for environmental protection and energy

2.4. Energy and resource-efficient buildings

40% of energy consumed: legislation related to the energy performance of buildings

2.4. Building and renovating in an energy and resource efficient way

- foster a green "renovation wave" of public and private buildings
- rigorously enforce legislation related to the energy performance of buildings
- review the Union's standards on construction products
- work to lift national regulatory barriers to energy efficiency investments

A Regenation wave for Europe - greening our buildings, creating jobs, improving lives, COMCOM(2020) 662

2.5. Recast of the Energy Efficiency Directive

Member States shall ensure that at least 3% of buildings owned by public bodies shall be renovated each year to at least nearly zero-energy buildings.

Directive (EU) 2023/1791 of 13 September 2023 on energy efficiency

2.6. Governance Regulation 2018/1999

National Integrated Climate and Energy Plan covering a 10 years period (2021-30)

- > Energy efficiency, decarbonization,
- Planning the implementation of RED Directive 2018/2021; Energy Efficiency Directive

>> Binding national measures that are likely to boost investment in production of new fuels, renewables but could also jeopardize investors' rights.