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## FEAD Feedback to the “Fit for 55” Package

**FEAD**, the European Waste Management Association, representing the private waste and resource management industry across Europe, welcomes the opportunity to comment on the **“Fit for 55” Package proposal by the European Commission**. As previously stated, [FEAD welcomes the legislative package proposed](#), which delivers the crucially needed changes to achieve a fair, competitive and green transformation. In line with its commitment on the climate and circular economy objectives of the EU Green Deal, FEAD has reviewed the proposals, focusing on the following pieces of legislation of main interest to the waste management sector.

As an introductory remark, FEAD highlights that the waste management sector, as a whole, is not only a key enabler of the Circular economy, by giving a second life to resources from waste, but is also an essential actor in the reduction of CO<sub>2</sub> emissions, avoiding emissions from manufacturing and energy activities by allowing them to use materials and energy derived from waste.

### **1. Energy Efficiency Directive (EED recast)**

FEAD welcomes the alignment of the energy efficiency targets with the 2030 EU climate ambitions and supports the definition of ‘efficient district heating and cooling system’ in the new Art. 24 of the EED recast, which confirms the positive status of waste heat in the energy mix of efficient district heating and cooling systems in the future.

### **2. Renewable Energy Directive (REDIII)**

FEAD welcomes the European Commission’s proposal for reviewing the 2018 Renewable Energy Directive (REDIII) and adjusting its rules to the latest EU climate ambitions for 2030. Therein, FEAD supports the unchanged definition of ‘waste heat’, considering that the activities of hazardous and non-hazardous waste installations are producing waste heat, when recovered by efficient district heating and cooling systems. Nevertheless, **FEAD encourages the legislator to extend the definition of ‘waste heat and cold’ under the RED also to other uses**, apart from district heating or cooling systems<sup>1</sup>.

**FEAD further encourages the EU legislator to promote the recovery of waste heat by ensuring that Member States support it in the same way as renewable energy in heating and cooling.** In this line, the 49 % target of share of energy from renewable sources in buildings by 2030 in the proposed Article 15a RED should also ensure that the use of all waste heat promoted, whatever its origin. This would be fully consistent with the revised definition of ‘efficient district heating and cooling systems’ in the new Art. 24 of the Energy Efficiency Directive recast.

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<sup>1</sup> Our proposed definition of ‘waste heat and cold’: ‘waste heat and cold’ means unavoidable heat or cold generated as by-product in industrial or power generation installations, or in the tertiary sector, which would be dissipated unused in air or water without access to a district heating or cooling system **or to other uses**, where a cogeneration process has been used or will be used or where cogeneration is not feasible.

**Private waste management companies have a positive role to play on the renewable energy production, in particular as regards thermal energy.** For this reason, FEAD welcomes the explicit recognition of waste-to-energy activities in the proposed new Article 3(3)(a)(ii) RED, with biodegradable waste as a renewable energy source, including the necessary observance of the waste hierarchy and separate collection obligations as a requirement for its support by the Member States. At this point and for the sake of consistency within the EU climate policy in this respect, we would like to reiterate the importance of the inclusion of such waste-to-energy activities also in the EU Taxonomy as an activity substantially contributing to (a transition to) a circular economy.<sup>2</sup>

**FEAD welcomes the fact that electricity, heating and cooling produced from municipal solid waste is not subject to greenhouse gas emissions saving criteria under Art. 29(1)(10) RED.** However, for the sake of consistency and clarity, this exclusion **should not be limited to municipal solid waste only,<sup>3</sup> since there are different interpretations across the Member States about this terminology.<sup>4</sup>** In fact, the calculation methods in Art. 31(1) RED for the emissions saving under Art. 29(1)(10) RED are not intended for the direct production of electricity, heating and cooling from waste, but for the use of biofuel, bioliquids and biomass fuels. Otherwise, new calculation methods should be developed to calculate the greenhouse gas emissions savings e.g., from waste wood directly used to generate energy, heating or cooling. In any case, **to guarantee legal security, the greenhouse gas emission savings under Art. 29(10)(d) should continue to apply only to installations starting operation from 1 January 2021.**

Finally, FEAD considers it is important to preserve the current definition of ‘biomass’ under Art. 2(24) RED. **Renewable and low-carbon fuels should cover the biodegradable fraction of Solid Recovered Fuel (SRF) or Refuse Derived Fuel (RDF), which have a virtuous role to play, being composed from more than 70% of biogenic content** according to a recent study from the French Energy and Environment Agency<sup>5</sup>. In this line, the definition of ‘renewable fuels of non-biological origin’ should also include biomass coming from waste,<sup>6</sup> in accordance with its carbon neutrality and the fact that it does not involve the adverse effect of deforestation, but rather promotes circularity.

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<sup>2</sup> FEAD advocates for the inclusion of waste-to-energy from residual, non-hazardous waste amongst the environmentally sustainable activities in the 2nd Delegated Act, provided that (1) there is a waste management plan in the given country; only residual waste, resulting from selective collection or sorting, is subject to energy recovery under application of the R1 Formula; and the CCS/CCU feasibility is examined. See position paper [here](#).

<sup>3</sup> FEAD proposes the following wording in Art. 29(1) RED: Electricity, heating and cooling produced from ~~municipal solid waste~~ and residues other than agricultural, aquaculture, fisheries and forestry residues shall not be subject to the greenhouse gas emissions saving criteria laid down in paragraph 10.

<sup>4</sup> As an example, “municipal waste” may refer to household waste and waste similar in nature and composition to waste from households, which means that commercial and industrial waste streams are excluded, even though they can be similar in nature.

<sup>5</sup> <https://librairie.ademe.fr/energies-renouvelables-reseaux-et-stockage/4007-determination-des-contenus-biogene-et-fossile-des-ordures-menageres-residuelles-et-d-un-csr-a-partir-d-une-analyse-14c-du-co2-des-gaz-de-post-combustion.html> Determination of the biogenic and fossil contents of residual household waste and of SRF, based on a 14C analysis of the CO<sub>2</sub> of post-combustion gases – November 2020.

<sup>6</sup> FEAD proposes the following wording: ‘renewable fuels of non-biological origin’ means liquid and gaseous fuels the energy content of which is derived from renewable sources other than biomass, except biomass from municipal, industrial and commercial solid waste’.

### **3. Energy Taxation Directive (ETD)**

**FEAD supports the fact that, under Article 16 of the proposed recast ETD, both electricity and products from biomass can be considered by Member States for tax limitations and/or exemptions.** As mentioned above, FEAD thinks it is important to preserve the current definition of 'biomass' under Art. 2(24) RED. However, a legal definition of 'sustainable biomass' is needed. To ensure clarity, the biodegradable fraction of waste, including municipal, industrial and commercial waste, should be considered for taxation purposes in consistency with the RED, and considering its carbon neutrality, as 'sustainable biomass' in any case.

**Generally speaking, biofuels should be taxed according to its carbon footprint as carbon neutral fuels, meaning zero taxation.** Pursuant to the present proposal, low-carbon fuels resulting from waste should be positively treated in the EU energy market compared to fossil fuels, as they avoid the consumption of fuels with a higher carbon footprint.

### **4. EU Emission Trading System (EU ETS) and Effort Sharing Regulation (ESR)**

With regards to the revised EU Emission Trading System (EU ETS) and Effort Sharing Regulation (ESR), FEAD sees the increased effort to reduce emissions of the whole waste management sector as an engagement we are ready to continue to take under the Effort Sharing Regulation, with a significantly higher level of CO<sub>2</sub> constraint. The ESR is a more appropriate tool for the sector compared to the EU ETS, although we see some different approaches in MS.

The whole waste management sector accounts for numerous SMEs for which the ETS was not designed in consideration of its high administrative burden. This is also the case for waste-to-energy activities, under which there is a vast number of small sized plants using solid recovered fuels (SRF). Co-incinerators (manufacturing or energy sector), if > 20MW, are currently included in the ETS while municipal incinerators are not. The logics behind this is that the latter emit CO<sub>2</sub> depending upon the carbon content of the waste they receive, and, as R1 qualified, avoid the use of fossil fuels for producing heat/electricity.

In this context, FEAD would like to remind the very small part of the Waste Management in GHG emissions accounting for 3% of the total EU emissions in 2017, and for 1,5% as far as energy from waste is concerned. Furthermore, FEAD would like to highlight three key messages:

- First, the waste management sector avoids GHG emissions, in wider proportions than it emits (secondary raw materials and energy recovery, biological recovery), **directly contributing to the decarbonisation.** Especially, the recovery or the recycling process from waste avoids the emissions that would have otherwise been used in extracting and manufacturing raw materials. As a matter of fact, the carbon footprint of recycled PET is 90 % less than its virgin counterpart, for textiles it is 98%, for steel up to 85%, aluminium 92%, paper 18%. Waste-to-Energy avoids the use of fossil fuels (at least in a transition period where the RES penetration is still weak) by producing heat and electricity with waste-based energy that is RES for approximately half of municipal waste.
- Furthermore, regarding GHG emissions, **the whole waste management sector should be addressed in a single piece of legislation.** Waste management has for main purpose to treat waste while ensuring sanitary and environmentally sound management by minimising its potential impacts on soil, air, water and, ultimately, human health. These healthy and sanitary goals should always prevail over further climate targets even if the waste sector shall continue its previous efforts which have enabled to decrease by 42% its emissions between 1995 and 2017.

- Finally, we are concerned that the additional effort of the new ESR proposal (from - 30 to - 40% CO2 reduction, baseline 2005) can lead to a lack of level playing field by a heterogeneous implementation between Member States of this new target, with measures such as taxation (Scandinavia) or other tools having proven problematic. This would cause competition distortion, which has to be avoided.

In a nutshell, **a strengthened ESR is the right holistic tool to reduce waste related GHG emissions while maximising the full potential of avoided emissions. Ensuring a fair competition at the European level between Member States must remain a key goal.**

### **5. Carbon Border Adjustment Mechanism (CBAM)**

As previously exposed, [FEAD welcomes the European Commission’s proposal for a carbon border adjustment mechanism \(CBAM\)](#) as a complementary tool to the EU ETS and the overall EU environmental legislation, to counteract the risk of carbon leakage.

In principle, EU regulations aimed at making the economy more circular constitute increased costs along the whole product life cycle. The whole production chain is more costly when based on recycling, than when using virgin materials. The CBAM should help address the price gap and create a level playing field between products containing recycled materials and those based on virgin materials:

- A CBAM should support regulatory measures aimed at incorporating recyclates into products, and, more generally, the waste recycling chain.
- Regarding “green” manufacturing as part of the eco-labelling scheme foreseen by the Circular Economy Action Plan, the EC should envisage a carbon label on products that are manufactured or sold within the Union. It would reflect the CO2 intensity in products, while showing the performance of products using recycled materials versus products that are made only with virgin resources.

As such, a CO2 compensation mechanism at the borders would work together with EU policies based on mandatory recycled contents, addressing thus also here the EU climate policy in a more consistent way<sup>7</sup>. This will result in increased investments in recycling, and in a more competitive supply of recyclates.

Undoubtedly, the implementation of a CBAM would face numerous practical, economic and legal challenges, under International Trade Law and especially with ensuring the mechanism is WTO-compatible. The mechanism must be applied to developing countries and trade partners without prejudice to the non-discrimination principle. The key is to structure any accompanying measure as a straightforward extension of the domestic climate policy to imports. The CBAM should be deployed gradually, starting with pilot sectors, where carbon content of product is easy to evaluate and establish, both for domestic and for imported products.

To design a functioning and successful CBAM, FEAD believes that further cost-benefit analyses and impact assessments are needed, by comparing the carbon footprint of products with recycled

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<sup>7</sup> The Circular Economy Action Plan (CEAP) adopted on the 11th of March 2020 clearly aims to extend mandatory recycled content to other products, such as packaging, construction products, and vehicles.

content and products with virgin materials. Such an assessment would show the importance of mandatory recycling content in the EU industries and how that should be linked with the CBAM.

FEAD is committed to the objectives of the European Green Deal and considers the above-mentioned aspects apt for providing the adequate stimuli both for addressing GHG emissions and carbon leakages and for enhancing circular economy in Europe.

**FEAD Secretariat**

[info@fead.be](mailto:info@fead.be)