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To whom it may concern,

RE: The Climate Change Advisory Council's feedback on the 2030 European Climate Law

The Irish Climate Change Advisory Council welcomes the Commission's Climate Law proposal which would establish a legally binding target of net zero greenhouse gas (GHG) emissions covering all sectors and all gases from domestic sources by 2050 for the European Union as a whole.

The Council emphasises the importance of increasing the EU's current 2030 target to reduce greenhouse gas emissions by at least 40% over 1990 levels to a target of 55% following an impact assessment to be completed by September this year. Given the time it will take to pass the necessary implementing legislation into law, the Council emphasises the need for the Commission to propose the necessary legislative changes soon thereafter and if possible well before the June 2021 date specified in the draft legislation.

The Council notes that the meaning of the trajectory for achieving climate neutrality set out in Article 3 is not defined in the legislation and is open to various interpretations. It recommends that the scope and purpose of the trajectory should be better defined in the Climate Law. If the purpose of the trajectory is to provide a benchmark against which to monitor progress by the Union, we recommend that the trajectory should start from the date of approval of the legislation rather than from 2030 as currently specified. There is an inconsistency in requiring an assessment by 30 September 2023 and every five years thereafter and the consistency of Union measures with the climate-neutrality objective "as expressed by the trajectory referred to in Article 3(1)" (Article 5(2)) if the trajectory itself only starts from 2030 (Article 3(2)).

Article 3 refers to setting a trajectory at the Union level. There is a lack of clarity in the relationship between the Union trajectory, national trajectories and the long-term strategies that Member States are required to develop under the Governance Regulation. It is noted the Climate Law would amend the Regulation on the Governance of the Energy Union and Climate Action to include reference to the climate neutrality objective by 2050, but how this translates to obligations of Member States is not clear. Article 6(1)(a) obliges the Commission to assess the consistency of national measures set out in National Energy and Climate Plans and Biennial Progress Reports with the climate-neutrality objective as expressed by the trajectory set out in Article 3(1). However this trajectory only applies at the Union level. The legislation should set out an obligation on Member States to also draw up national trajectories which would help the Commission to fulfil its assessment obligations in Article 6.

The Council wishes to underline the importance of the monitoring and assessment provisions of the legislation. The Commission will regularly assess relevant national measures and issue recommendations where it finds inconsistencies or that measures are inadequate (Article 6). In response to a finding of inconsistency or inadequacy, a Member State is asked to take due account of the recommendation or to provide its reasoning if it decides not to do so. This is a 'soft' form of governance, however the Council recognises that binding national targets set out in the effort-sharing regulation and the LULUCF Regulation as well as the maximum ceiling on ETS allowances provide the 'hard' incentives for compliance.

Under Article 5, the Commission is authorised to assess on a five-yearly basis the collective progress made by Member States towards the climate-neutrality objective as well as on adaptation. The Council welcomes the provision for a regular five-yearly review of the consistency of Union measures with the climate-neutrality objective and the obligation on the Commission to propose additional measures if the measures are deemed inadequate. It also notes that the Commission shall assess any draft measure or legislative proposal in light of the climate-neutrality objective as expressed by the agreed trajectory. In this context, the Commission will be responsible for evaluating the climate impact consistency of its own proposals.

The Council believes the governance of the Climate Law could be strengthened if there were a role for an independent body to review the Commission's findings, for example, on the trajectory set, on the collective progress made by Member States, and on the consistency of its own proposals with the climate-neutrality objective laid down in the Law. This could be an established body, such as the European Court of Auditors or the European Science

Academies (SAPEA) or, if it were felt justified, by a new European Climate Council similar to those which already exist in many Member States.

The Council welcomes and emphasises the importance of inclusion of the criterion to use “the best available and most recent scientific evidence, including the latest reports of the IPCC” when setting out the trajectory and during subsequent review of progress and the trajectory itself.

Yours sincerely,

Prof. John FitzGerald

Chair

Climate Change Advisory Council