

Opening Statement by Friends of the Earth

to the Oireachtas committee hearings on the Government's proposed climate Bill

July 2013

Thank you Chair, and members of the Committee, for this opportunity to discuss the Government's outline Heads of a climate change Bill. These committee hearings are a very welcome initiative. Indeed the transparency and deliberative nature of the Committee's work as it considers the evidence is precisely what good climate legislation aims to do for climate policy on a permanent basis.

Since Friends of the Earth started working towards a statutory framework for climate policy politicians have often lamented that "nobody asks about climate on the doorstep". Our answer is simple: nobody on the doorsteps was asking about banking regulation in 2002 or even 2007 but they would have been very grateful if politicians had seen the risks ahead and strengthened the regulatory framework before the crisis hit.

Indeed we see parallels between the causes of the financial crisis and the causes of the climate crisis: poorly understood risk, a short-term focus on business-as-usual, and faith in "light-touch" regulation. We cannot afford to repeat those mistakes. If we let the climate crisis become a crash there is no way back. Nature doesn't do bailouts.

Climate change often seems remote and intangible, although if you're a farmer importing fodder or a homeowner who can't get insurance because you've been flooded twice in 5 years then you know otherwise.

And addressing climate change needs a range of policies across all departments of Government – many of whom don't see it as core to their business. And it needs urgent action, but sustained over decades.

That apparent intangibility, the mismatch between the scope of action required across Government and the silo-ed nature of the responsibility to act, and the challenge of "chronic urgency" are key reasons why a strong statutory framework is required.

Legislation is the best way to make sure that all departments across Government and all Governments across time, take climate change seriously and take action consistently.

How robust climate legislation works is relatively simple (we have good examples in the UK and Scotland).

1. You put your overall long-term target into law.
2. You get expert advice from an independent body.
3. The Government proposes and parliament adopts interim *national* targets in line with medium-term negotiated international agreements and the long-term target.
4. That national target is the starting point for the "National Low Carbon Roadmap"

5. The Cabinet negotiates the allocation of emissions between sectors in the same way as they negotiate the allocation of spending between departments in the fiscal budget.
6. Those allocations are the starting points for the sectoral roadmaps.
7. The independent body produces annual progress reports for *parliament*
8. Ministers make statements to parliament in which they must respond to the points raised in the progress reports.

The draft Heads of Bill being considered by this committee contain elements of this structure, most positively in the area of reporting to the Oireachtas, but fall well short in key respects:

1. The Bill has no 2050 target

The target is what drives the rest of the policy cycle. Without this the Bill will not work. It provides a legal impetus for timely and adequate action to cut emissions. And to provide a clear benchmark against which to measure progress. Only a numeric target can be clear. The 5 climate Bills initiated in the Oireachtas since 2009 all had an 80% target for 2050.

There appear to be a number of objections being raised to a 2050 target.

“The Government will be in and out of the courts”

- Media reports suggest the Attorney General advises it could expose the Government to litigation. This is to misunderstand the purpose of targets. They are to drive political action and parliamentary accountability not legal action and judicial review. This can be made very clear in the law and has been dealt with in other jurisdictions as the submissions to the committee by Conor Linehan and Peter Doran respectively lay out in detail.
- The last Government produced a climate Bill with targets, signed off by the AG, so the legal concerns about targets cannot have been decisive. After two years of review this Government has proposed a very very similar Bill, but with the 2050 target taken out. So it is clear that, at the end of the day, the decision to include targets will be a political one not a legal one.

“Targets tie our hands in EU negotiations” / “Unilateral targets make us less competitive”

- There is a moral argument against this line of reasoning. Those campaigning for the abolition of slavery were told it would undermine the United Kingdom of Britain and Ireland’s competitiveness and prosperity. That line of reasoning was both immoral and false. Our economy now depends on fossil fuels in the way economies once depended on slaves. And now that we know the damage burning fossil fuels is causing, the moral choice is to wean ourselves off fossil fuels, for the sake of our children, no matter what others do.
- We do not even need to reach for this overarching moral argument however. Friends of the Earth is not proposing we adopt unilateral targets or tie our hands in EU negotiations. We are not proposing for example that Ireland enshrine a 2030 target in Irish law right now. Ireland’s 2030 target will flow from the negotiations underway within the EU.
- But for 2050 EU Heads of Government have already agreed that the EU’s target will be 80-95% reductions. Adopting an 80% reduction target therefore is not to pre-empt negotiations, it is merely to show willing to turn up at the

starting line. And it is very hard to imagine any outcome for 2050, that is line with the what the science shows is needed to contain climate change, which would see Ireland with an easier target than 80%.

- Moreover, as the Ernst and Young cleantech report and the submission from the Corporate Leaders Group make clear there is real economic opportunity for Ireland in the transition to a low-carbon economy. We believe a strong climate law will in fact make Ireland an attractive hub for green investment and innovation. A 2050 target shows we mean business on climate change.

“We don’t know exactly how we would deliver an 80% reduction target”

- Indeed. That is the point of a target. It sets the direction. It drives the innovation and action required to meet it. It raises expectations and performance. Ireland’s target of 40% of electricity from renewables by 2020 is one such “stretch target” and has significantly improved our performance already, with renewables reaching 20% in 2011.
- When John F Kennedy, about whom there has been much political eulogising in Ireland of late, said “We choose to go to the moon in this decade... not because [it is] easy, but because [it is] hard” scientists were aghast because the necessary technology didn't yet exist. But the setting of the objective drove progress and a man stepped on the moon 8 years later. Now scientists are telling us we have 8 years to start cutting emissions enough to contain climate change. And politicians seem to be saying “it is too hard”. Kennedy said the “goal will serve to organise and measure the best of our energies and skills”. A climate Bill without specific, explicit, targets would suggest that those passing it don't want us to be able to measure our progress.

On all of these grounds we would urge the Committee to recommend the introduction of a new sub-head 4.1. that, just as section 4.3 of the 2010 Bill did, sets an 80% reduction target for 2050. If that wording is too simple, then Section 2.1 of the Fiscal Responsibility Act 2012 provides an alternative framing of the same objective.

Finally, on this matter, if the Committee remains unsure as to the right the level of the 2050 target, you could recommend that the Government do what its UK counterpart did at this stage, which is to ask the independent advisory body, appointed for now on a non-statutory basis, to make a recommendation as to the appropriate 2050 target.

2. The Expert Advisory Body is not independent enough

- It should be a properly independent council of experts, like the Fiscal Advisory Council or UK Climate Change Committee. The Fiscal Responsibility Act 2012 provides a good model for this part of the climate Bill.
- There should be no ex-officio members. The state agencies should provide their expertise at the secretariat level, not at the council level.
- The council must be able to directly publish its own reports and not depend on the grace and favour of the Government, as this Bill currently has it.
- The council should report directly to parliament, as the C&AG does here and the Climate Change Committee does under the UK Act.
- The proposal by the NESC Secretariat for “a government-led national steering and oversight board and a small technical secretariat” complements rather than

contradicts or substitutes for the independent expert advisory body established under this Head.

- This is best illustrated by the 2009 Labour Party Bill and 2010 all-party Bill which have both an independent Climate Change Commission *and* an Office of Climate Change in the Department of the Taoiseach.
- Currently the Cabinet Committee on Climate Change and the Senior Officials Group play the roles of steering board and technical secretariat respectively. It would be no harm to institutionalise them as NESC suggests, rather in the manner that the implementation of the Action Plan for Jobs is coordinated from the Department of the Taoiseach by a committee chaired by the Secretaries General of D/Taoiseach and D/JEI. This would no doubt aid communication, coordination and implementation of the National Low Carbon Roadmap.
- It is in no way, however, a substitute for external expert advice and, even more importantly, review of progress, by an independent body whose work will inform public opinion and enable the Oireachtas to better scrutinize Government performance and hold the executive branch to account. To return to the fiscal analogy, the coordinating role of the Department of Finance and the political role of the Economic Management Council does not make the Fiscal Advisory Council and the C&AG unnecessary.

3. The National Roadmap should come before the Sectoral Roadmaps

- The sequencing of the policy-making cycle envisaged in the Heads entrenches an anachronistic silo-based approach. Departments develop sectoral roadmaps first, in isolation, and with a natural vested interest in not offering to do more than other Departments.
- The National Roadmap as envisaged is then little more than a lowest-common-denominator compilation of the sectoral ones that will simply not deliver the transformation in our energy, transport, food and planning and housing systems required to avoid unmanageable climate change and manage unavoidable climate change.
- As outlined above the purpose of climate legislation is to reform policy-making to make it fit-for-purpose to tackle a challenging, cross-Departmental issue in a transparent, evidence-based and accountable way.
- The Cabinet should agree a 5-year headline national target, based on our international obligations and our long-term target. This should be the starting point for the National Roadmap. The seven year periods proposed are too long – they undermine the possibility of parliamentary accountability by being so much longer than the electoral cycle.
- Then, to use the analogy of fiscal policy once again, the Cabinet should negotiate and agree the allocation of emissions under the target to different Departments/Sectors just as it negotiates and agrees spending allocations to Departments before the fiscal budget.
- The National Roadmap, with its 5-year national target, should ultimately be adopted by way of a vote in the Dáil, just as the key provisions of the fiscal Budget are.
- Contrast, however, what this Bill proposes with the process for fiscal Budget 2013. The Government started with a clear target of a deficit of 7.5% of GDP for the year and a required adjustment of €3.5bn. All discussions within and between Departments and at EMC and Cabinet level are then about *how* best

to achieve those savings. That demonstrates the power of a target to drive policy and the logical order to develop policy.

- For climate policy, without that firm central direction from the legislation and the Cabinet the debate becomes *whether* to cut emissions rather than *how*, which each Department taking a “not-us, not-yet” line in respect of their sector.
- So just as with fiscal policy, the climate policy process should start with the national target, proceed to Cabinet negotiations and then on to sectoral measures. Instead the Bill proposes Departmental-led sectoral roadmaps, Cabinet agreement on a patchwork national roadmap and no targets. That is a recipe for the very failure of ambition and implementation we experienced with Irish policy for Kyoto compliance and is the very problem that climate legislation is supposed to rectify, not institutionalize.

Climate legislation is not a silver bullet, it doesn't make emissions magically disappear. But Ireland's experience under the Kyoto Protocol is that traditional policy making is not up to the challenge of generating the sustained impetus to act required across a range of Departments across time.

Climate legislation is a key element of political reform to make one area of policy-making more long-term, more evidence-based, more transparent and more accountable to the Oireachtas.

It's altogether appropriate therefore that an Oireachtas committee has been given a central responsibility in developing the Government's draft outline Bill into something which is clear and strong enough to deliver that reform. I look forward to the rest of your hearings and to the outcome of your deliberations. Thank you again for the opportunity to present and I look forward to your questions.