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Three policy options

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Executive Summary

- EU tax policy, in particular corporate taxation, should complement EU industrial policy.
- In the current institutional framework, the EU cannot levy its own taxes. However, it can set various polices that can support a green industrial transition. In this policy brief we discuss three of them:

  1. First, it is advisable to consider "greening" the existing EU corporate income taxation (CIT) rules to better promote green investments, i.e. introduce harmonized tax incentives/deterrents at the EU to foster investments in environmentally-friendly technologies or to reduce emissions by corporate actors.

  2. Secondly, and more far-reaching, the EU should consider to harmonize its CIT base. This would give the EU a powerful vehicle to implement coordinated tax measures for advancing an EU industrial agenda. As proposed in Scherleitner & Traversa (2024a), this initiative requires certain safeguards to Member States´ legitimate own tax policy interest. Furthermore, it may go hand in hand with attributing parts of the revenues to the EU.

  3. Thirdly, and with the primary focus on raising money to finance the green transition, we propose the FINE-for-EU framework. As elaborated in Scherleitner & Traversa (2024b), this concerns setting up a Pan-European Climate Fund that is financed by pan-European businesses for the sake of conducting pan-European green investments. Although this policy instrument mainly aims at achieving certain yearly funding goals, steering effects can be reached through the design of the contribution structure.

1. The problem: Lack of funding for EU Industrial Policy[1]

In the current geopolitical context, reinforcing EU industrial policy financing is a strategic imperative. The EU is grappling with a loss of industrial competitiveness, increasing supply chain vulnerabilities, and an urgent need to scale up defence industrial capacity. The Von der Leyen II Commission has outlined a renewed focus on economic security and strategic autonomy,[2] while the Draghi report stresses the need for a common EU response to global economic fragmentation and the acceleration of industrial transformation.[3] The EU industrial policy agenda also comprises the environmental dimension[4] reflected in the European Green Deal, a strategy designed to reach climate neutrality by 2050 and aimed at improving the capacity of the EU´s industry to gain market share in high value-added markets linked to the energy transition.[5]

Achieving these goals demands substantial public investment at the EU level. Yet, traditional mechanisms—such as the Capital Markets Union and proposals for a European Sovereignty Fund—are impeded by political fragmentation. Simultaneously, national fiscal constraints, exacerbated by high debt levels and tightening monetary conditions, limit the capacity for national stimulus.

In this context, reformulating and advancing proposals for new EU own resources becomes critical. Mechanisms like the Carbon Border Adjustment Mechanism, digital taxation, and financial transaction levies offer viable pathways to generate EU-level revenues. Strengthening the EU's fiscal architecture

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This article is a policy paper that aims at communicating ideas the authors have elaborated before to a broader audience. The work on option 2 is based on a considerably larger elaboration provided in Moritz Scherleitner and Edoardo Traversa, 'Involving the Corporate Sector in EU Financing – A Two-Tier Model for a Corporate Income Tax Based Own Resource' [2024] European Law Review <https://papers.ssrn.com/abstract=4695242> accessed 23 January 2024. The work on option 3, is based on a considerably larger elaboration provided in Moritz Scherleitner and Edoardo Traversa, 'Will It Be FINE-for EU? A Proposal for a Mechanism Funding Pan-European Green Investment to Promote the EU (Still) Meeting Its Climate Goals' <https://papers.ssrn.com/abstract=4650390> accessed 17 May 2024. Naturally, the discussion provided for here includes a text that was published in the aforementioned publications. This concerns section 2, 3.2., and 3.3. The proposal made in sec. 3.1. is new and has not been published so far. Work on it, nevertheless, is conducted by Moritz Scherleitner and Mirja Salmelin, who has been involved in the development.

[2] https://enlargement.ec.europa.eu/news/speech-president-von-der-leyen-european-parliament-plenary-new-college-commissioners-and-its-2024-11-27_en

[3] https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en

[4] For an overview, see 'EU Industrial Policy' <https://www.consilium.europa.eu/en/policies/eu-industrial-policy/> accessed 20 May 2024.

[5] For a broader elaboration, see, e.g. Jean-Christophe Defraigne, and others, 'Introduction to EU Industrial Policy in the Multipolar Economy: Past Lessons, Current Challenges and Future Scenarios' in Jean-Christophe Defraigne and others (eds), *EU Industrial Policy in the Multipolar Economy* (Edward Elgar Publishing 2022) <https://www.elgaronline.com/view/book/9781800372634/9781800372634.xml> accessed 23 June 2023.

is essential to underpin a coherent industrial strategy. Without it, key policy goals—green and digital transitions, economic security, and defence readiness—risk remaining underfunded and aspirational. A stable, autonomous financing framework is no longer just desirable; it is indispensable for Europe's strategic future.

Taxation is significantly related to industrial policy.[6] On the one hand, taxes raise revenues that can be used to fund industrial policy initiatives, such as public investment and public procurement. On the other hand, tax incentives can steer the behaviour of economic actors towards desired policy objectives.

While indirect taxes, that is, taxes levied on transactions, have been subject to rather substantial harmonization on an EU level,[7] this is not the case with respect to direct taxes, i.e. taxes levied on income. Although harmonization has been reached also in this context, it is significantly less far-reaching. The latter is not unproblematic from the perspective of an EU industrial policy because it means that direct taxation can only be used rather limitedly as a policy tool in this context.

In this working paper we will discuss three possibilities as to how the EU could use its existing powers in the area of taxation that may support a broader green EU industrial agenda. Two of the proposals are based on our prior work (Scherleitner & Traversa 2024a and Scherleitner & Traversa 2024b); one is based on work in progress. Before presenting them, we will briefly introduce the reader to the broader financing architecture of the EU, and display the resulting – well-known – Juste retour phenomenon, which needs to be kept in mind in policymaking.

[6] Instead of many and with further references, see Michael P Devereux and others, *Taxing Profit in a Global Economy* (1st edn, Oxford University PressOxford 2021) <https://academic.oup.com/book/39640> accessed 20 March 2023.

[7] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax; Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (Text with EEA relevance) 2023 (OJ L); Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast) 2013 (OJ L); Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (Text with EEA relevance)Text with EEA relevance 2023.

2. The status quo of EU financing: Too few Europe in, too few Europe out?

2.1. Where does the EU get its money from?

The EU itself cannot levy tax for the purpose for raising revenues[8] since in the current treaty framework -contrary to what the 1951 ECSC Treaty provided[9]- there is no legal basis for doing so.[10] Apart from that, the institutional structure of the EU does not grant sufficient direct representation of EU taxpayers.[11] Thus, the EU cannot itself impose a tax to collect revenue for the financing of industrial policy initiatives.

Instead, the EU is financed via so-called own resources and other revenues. The latter include funds that are raised in the course of the implementation or enforcement of EU policies – most importantly, fines imposed by the EU and taxes on the salaries of EU civil servants.[12] Furthermore, it includes the revenues from borrowing activities linked to the non-repayable part of the NextGenerationEU (NGEU).[13] Own resources, constituting two-thirds of EU revenue,[14] are funds passed from the Member States to the EU via the so-called own resource decision. This is based on Art. 311 TFEU, requiring the Council to unanimously agree on the financing of the EU, which is then to be ratified by the national parliaments.[15] Importantly, the own resource decision binds only the Member States and does not

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[8] In more detail and with further references, see Hanno Kube, 'EU-Steuern: Zuständigkeit Zur Regelung Und Erhebung Sowie Ausgestaltungsmöglichkeiten' in Michael Lang (ed), *Europäisches Steuerrecht* (Verlag Dr Otto Schmidt 2018) <https://www.degruyter.com/document/doi/10.9785/9783504386009-003/html> accessed 3 March 2023; Christian Waldhoff, 'Legal Restrictions and Possibilities for Greater Revenue Autonomy of the EU' in Thiess Buettner and Michael Thöne (eds), *The Future of EU-Finances* (Mohr Siebeck 2016); Edoardo Traversa, '§ 3 The Long and Winding Road towards a Tax-Financed EU Budget' [2021] Heidelberg Working Paper Series on Public Finance and Tax Law 57.

[9] The ECSC levy was a tax on the production of coal and steel, levied directly on producers within the six founding member states (max 1%, in practice around 0,5%) and was used to fund the ECSC administrative costs, social aid (e.g., for workers affected by restructuring) and investment loans to modernize the coal and steel industries.

[10] The own resource decision does not form the grounds for the EU to tax, nor does any other provision in EU primary law allow for the implementation of a tax that is primarily aiming to raise revenues. See, e.g., ibid.

[11] Given the applicability of, usually, Art. 115 TFEU, the creation of tax-relevant secondary EU law, neither the national parliament nor the European Parliament is involved. The latter is particularly an issue with respect to national constitutional law that may prohibit the transfer of genuine taxation rights to the EU. For the German discussion, see Kube (n 6); Waldhoff (n 6). See further on questions of legitimacy of EU taxation.

[12] The taxes levied by the EU on the income of EU civil servants are a compensation for being exempt from income tax on their salaries in their original home countries. See further, e.g. COMMISSION STAFF WORKING DOCUMENT Accompanying the document Amended Proposal for a Council Decision amending Decision (EU, Euratom) 2020/2053 on the system of own resources of the European Union WD:2; Georg Kofler, 'Das Steuerregime Für Bedienstete Der EU' in Harald Schaumburg and Joachim Englisch (eds), *Europäisches Steuerrecht* (2nd edn, Otto Schmidt 2020).

[13] This explains the increase in relevance of other revenues that, until 2020, constituted less than 10% of overall revenue n. 42 above p. 9 et seq.

[14] European Commission, 'EU Spending and Revenue 2021-2027' <https://commission.europa.eu/strategy-and-policy/eu-budget/long-term-eu-budget/2021-2027/spending-and-revenue_en>.

[15] This is a rare form of decision making at the EU level that is regarded to lie in between primary and secondary EU law. See Kube (n 6); Ulrich Häde, 'Artikel 311 AEUV [Eigenmittel]' in Matthias Pechstein, Carsten Nowak and Ulrich Häde (eds), *Frankfuter Kommentar AEV GRC AEUV* (Mohr Siebeck 2017). However, it is not unique. See, e.g. Art. 48(6) TFEU. See further going, e.g. C. Heber, 'European Legal Limits for the Recovery Fund' (2020) (No. 2020-16) *Working Paper of the Max Planck Institute for Tax Law and Public Finance*.

impose any direct financial obligations on citizens.[16] In other words, it merely tells the Member States how much they need to pay, leaving it, formally, up to the Member States to decide where to get the money from. Furthermore, the decision is typically renewed every seven years,[17] which upholds democratic control within the Council and the national parliaments.[18]

The current own resource decision is valid from 2021 onwards and is based on four pillars.[19] The first one are traditional own resources which are customs and agricultural duties.[20] They are administrated by the Member States, who keep 25% as a reward for the collection.[21] Given that the revenue raised is directly connected to the obligation to pay 75% to the EU budget, it is economically similar to an EU tax. The second pillar is the VAT-based own resource. Following a certain mechanism related to Member States´ VAT base, it allocates funds to the EU,[22] which are then paid from the Member States´ general budgets.[23] Third, the new own resource decision introduced a so-called plastic levy, requiring Member States to pay to the Union EUR 0,80 per kilogram of non-recycled plastic waste.[24] The

[16] I.e. the EU cannot rely on the own resource decision to levy taxes. See here also *BVerfG, Urteil vom 12 Oktober 1993 – 2 BvR 2134/92, 2 BvR 2159/92* (Bundesverfassungsgericht).

[17] 94/728/EC, Euratom: Council Decision of 31 October 1994 on the system of the European Communities' own resources; 2000/597/EC, Euratom: Council Decision of 29 September 2000 on the system of the European Communities' own resources; 2007/436/EC, Euratom: Council Decision of 7 June 2007 on the system of the European Communities' own resources; 2014/335/EU, Euratom: Council Decision of 26 May 2014 on the system of own resources of the European Union.

[18] Kube (n 6) 96.

[19] Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis 2020 (OJ L).

[20] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom 2020 (OJ) art 2(1) lit a).

[21] n. 49 above art. 9(2)., Given that this is clearly above the actual collection cost, this mechanism "pollutes" the rationale behind the treaties assigning the revenues directly to the EU since particularly those Member States that levy a high amount of customs can retain income for the benefit of their national budget despite the compensation exceeding their collection costs and despite revenue belonging to the EU. Compare, e.g., U. Häde, n. 45 above para. 31.; European Commission, *Proposal for a COUNCIL DECISION on the system of own resources of the European Union (//EC, Euratom) {SEC(2011) 876 final}* (2011), at p. 6; U. Häde, n. 45 above para. 31.That being said, the assignment of the share of the revenue in excess of collection costs has the decisive advantage of incentivizing Member States to properly enforce the rules. Hence, allowing those Member States that, for various reasons, levy more customs than others to retain a premium may be seen as a price to be paid in for them acting in common interest.

[22] See, n. 49 above art. 2(1)lit b). A ceiling is set for 50% of GNI. See the version before the amendment taking effect in 2021, Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax. For the amendment see, Council Regulation (EU, Euratom) 2021/769 of 30 April 2021 amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ).

[23] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax 2022. See further, Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax. Conceptually, this is similar to the proposed own resource based on the share of residual profit of multinational enterprises reallocated to Member States pursuant to a directive implementing Pillar 1 of the OECD/G20 agreement. Also, this should be paid from the general budget while the underlying rules are harmonized. Proposal for a COUNCIL DECISION amending Decision (EU, Euratom) 2020/2053 on the system of own resources of the European Union 2021.

[24] See ibid, Art. 2(1) lit c), with certain lump sum reductions for certain Member States being outlined in Art. 2(2).

payments are made out of the general budget, leaving it up to the Member States whether to implement a plastic tax on the relevant polluters.[25] The fourth pillar, and by far the most relevant, is the so-called GNI-based own resources,[26] which in 2020 were 71,9% of overall revenue and serve as a residual revenue source.[27]

2.2. The Juste retour problem

The spending of EU funds is guided by the Multiannual Financial Framework (MFF). It sets out the EU's spending priorities and limits. While decision-making on budgetary matters is shared between the Council and the European Parliament, it is factually the Council that has considerably more power in this regard.[28] This comes as, under Art. 312 TFEU, the Council sets out the MFF, after which the European Parliament can agree or disagree. The agenda-setting, thus, remains with the Council.[29] The yearly budgetary negotiations stay within the limits set by the MFF.

Due to EU financing relying heavily on GNI-based own resources (paid directly from the Member States´ budgets) and with the Council (representing the Member States) being able to set the agenda in spending, Member States have shown tendencies to think about the EU budget in terms of net balances. This is a very well-known problem, which is referred to as the "Juste retour" dilemma.[30] It incentivizes Member States to aim for a minimization of their national contributions and a maximization of their measurable flowbacks from the EU budget.[31] This tends to result in (i) an under-provision of

[25] Critical, e.g. Stefanie Geringer, 'The Future of the EU ' s Financing in Times of Disruption and Recovery: Normative and Technical Issues of Greening the EU ' s Own Resources System', *Tax Law in Times of Crisis and Recovery* (2023) <https://www.bloomsbury.com/uk/tax-law-in-times-of-crisis-and-recovery-9781509958030/> accessed 10 May 2023.
[26] See ibid, Art. 2(1) lit d). with certain annual lump sum reductions applying. See Art. 2(4).
[27] Margit Schratzenstaller and others, 'New EU Own Resources: Possibilities and Limitations of Steering Effects and Sectoral Policy Co-Benefits' (2022) 26
<https://www.europarl.europa.eu/RegData/etudes/STUD/2022/731895/IPOL_STU(2022)731895_EN.pdf>.
[28] Clemens Fuest, Friedrich Heinemann and Martin Ungerer, 'Reforming the Financing of the European Union: A Proposal' (2015) 50 Intereconomics 288. S
[29] E.g. Fuest, Heinemann and Ungerer (n 25).
[30] E.g. Fuest, Heinemann and Ungerer (n 25). Compare further also, e.g. Vasja Rant and Mojmir Mrak, 'The 2007–13 Financial Perspective: Domination of National Interests' (2010) 48 JCMS: Journal of Common Market Studies 347; Christina Zimmer, Gerald Schneider and Michael Dobbins, 'The Contested Council: Conflict Dimensions of an Intergovernmental EU Institution' (2005) 53 Political Studies 403.
[31] Ibid. See further also Jean-Christophe Defraigne and Patricia Nouveau, *Introduction à l'économie européenne* (3e éd. entièrement mise à jour, De Boeck supérieur 2022). E. Traversa, The Reform of EU Own Resources from a Tax Nexus Perspective: Which Fiscal Federalism for the European Union?, in E. Traversa, Tax Nexus and Jurisdiction in International and EU Law, IBFD, 2022, p. 251; C. Fuest & J. Pisani-Ferry, Financing the European Union: New Context, New Responses, Policy Contribution 16 (Sept. 2020), available at https://www.bruegel.org/

genuine EU level public goods that lack visible benefits from the perspective of the Member States, and (ii) an over-provision of EU-funded projects in the fields of agriculture or cohesion policy that have only a very limited additional EU value but contain certain and clearly quantifiable backflows to the Member States.

3. Corporate taxation and the EU industrial policy : what can be done?

3.1. Overview

When thinking about how corporate taxation can be involved in a larger green EU industrial policy agenda, it appears useful to draw a sharp distinction between the revenue and spending dimension. This comes as a consequence of the above-described institutional and political characteristics of the EU's financial architecture. Corporate tax legislation set by the EU will, being a directive, bind the Member States to change their laws accordingly. The resulting gains or losses in tax revenue connected to such policies, however, affect the Member States, given it is them that receive the corporate income tax. As such, an increase in corporate tax through an EU directive will not flow into the EU budget, unless additional legal acts are implemented that foresee this.

Below we will discuss three options as to how corporate tax policy can be integrated into a wider green industrial policy. The first one, being the lightest option, includes the greening of existing EU corporate tax legislation (3.2). The second option is more ambitious and connects more far-reaching revenue policies with raising the money flowing into the EU budget, where it could potentially be dedicated to relevant spending on green industrial policy (3.3). The third option – rather ambitious too – also aims primarily at raising funds that can be used to finance the green transition, and could be an alternative or complement to intiatives such as the Industrial Decarbonization Bank announced in the framework of the Clean Industrial Deal.[32] In so doing, it provides, in addition, for a vehicle for setting steering policies. (3.4)

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wp-content/uploads/2020/09/PC-16-2020-110920.pdf (accessed 4 July 2023); M. Schratzenstaller & A. Krenek, Tax-based Own Resources to Finance the EU Budget: Potential Revenues, Summary Evaluation from a Sustainability Perspective, and Implementation Aspects, WIFO Working Papers 581/FairTax Working Paper 25 (2019). See also M. Schratzenstaller et al., Sustainability-oriented EU taxes, FairTax Project, (WIFO/Mendel University 2016-2018), various working papers are available at https:// www.umu.se/en/fairtax/results/ (accessed 4 July 2023).

[32] The Industrial Decarbonization Bank project is a European Union-backed initiative designed to accelerate the decarbonization of the industrial sector by providing targeted financing for clean technologies and sustainable infrastructure in line with the EU's Green Deal and climate neutrality goals. (https://www.politico.eu/article/brussels-pitches-e100b-for-grand-plan-to-boost-made-in-eu-clean-manufacturing/)

3.2. The lightest version – green the existing EU corporate tax legislation

The easiest and fastest way to more strongly align EU corporate taxation with EU industrial policy is to adapt existing EU legislation to being more permissive to the Member States´ tax policy instruments that aim to advance the transition in industrial policy.

Corporate tax incentives are fundamental tools in this respect, as evidenced in the US by their role in the Inflation Reduction Act.[33] Despite the fact that corporate taxes are the competence of Member States, the EU may influence their adoption in various ways, in particular through State aid rules. Although the relationship between taxation and the enforcement of State aid rules is complex and goes beyond the scope of this policy brief,[34] it is worth pointing out that the European Commission has devoted specific attention to tax subsidies over the last few decades. In the 1990s, the Commission had already been conducting several inquiries into preferential tax regimes subject to potentially selective conditions, such as the size of the undertaking, the nature of the activity, or the discretionary granting of prior authorization. In the mid-2010s, in the wake of media investigations and domestic public enquiries concerning tax planning strategies of multinational groups of companies – some of them active in the digital sector[35] – the Commission launched another series of investigations regarding administrative decisions adopted by national administrative bodies (tax rulings).[36]

Besides initiatives specifically targeting tax incentives, more general industrial policy instruments may impact the Member States' leeway in designing them. For example, in 2021 the Commission published new guidelines to facilitate the granting of subsidies for the ecological and digital transition of

[33] 'FACT SHEET: How the Inflation Reduction Act's Tax Incentives Are Ensuring All Americans Benefit from the Growth of the Clean Energy Economy' (*U.S. Department of the Treasury*, 12 June 2024) <https://home.treasury.gov/news/press-releases/jy1830> accessed 14 June 2024.

[34] For a detailed overview, see Isabelle Richelle, Wolfgang Schön and Edoardo Traversa (eds), *State Aid Law and Business Taxation*, vol 6 (Springer 2016) <http://link.springer.com/10.1007/978-3-662-53055-9> accessed 14 June 2024 as well as; Edoardo Traversa and Pierre Marie Sabbadini, 'State-Aid Policy and the Fight Against Harmful Tax Competition in the Internal Market: Tax Policy in Disguise?' <https://dial.uclouvain.be/pr/boreal/object/boreal:192193> accessed 14 June 2024.

[35] Speech of director general of DG COMP, Mr Johannes Laitenberger, ICF, St. Gallen, 20 May 2016, available at http://ec.europa.eu/competition/speeches/text/sp2016_06_en.pdf, last accessed 28 June 2016. See, for example, the transcripts of the UK Public Account Committee meeting held on 12 November 2012 with representatives of Starbucks, Amazon and Google, available at http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/716/121112.htm, last accessed on 28 June 2016 and the testimony of Apple's CEO during the hearing of the US Permanent Subcommittee on Investigations held on 21 May 2013, available at http://www.hsgac.senate.gov/subcommittees/investigations/hearings/offshore-profit-shifting-and-the-us-tax-code_-part-2, last accessed on 28 June 2016.

[36] European Commission Press Release of 11 June 2014 "*State aid: Commission investigates transfer pricing arrangements on corporate taxation of Apple (Ireland) Starbucks (Netherlands) and Fiat Finance and Trade (Luxembourg)*", http://europa.eu/rapid/press-release_IP-14-663_en.htm, last accessed 1 July 2020. Antonio Carlos do Santos, L'Union Européenne et la Régulation de la Concurrence Fiscale, Bruylant, 2009, p. 432 et seq.

companies. They cover the regional aid which supports the ecological and digital transformation of disadvantaged areas[37] and subsidies which pursue general energy and environment goals.[38] In the continuity of those guidelines, the Commission adopted the Green Deal Industrial Plan for the Net-Zero Age,[39] a comprehensive strategy aimed at fostering sustainable economic growth while achieving climate neutrality by 2050. This plan emphasizes the development of clean technologies and ensures a stable supply of critical raw materials. Additionally, it aims to reform the electricity market to support the integration of renewable energy sources and enhance energy efficiency. A key component of this plan is allowing more flexibility under State aid rules on a temporary basis. This includes providing tax benefits to encourage investments in green technologies and innovations. The plan also seeks to speed up Important Projects of Common European Interest (IPCEI), which are crucial for advancing significant technological and infrastructural developments across the EU. Furthermore, the plan includes increased direct funding through the REPowerEU initiative. This initiative focuses on bolstering the EU's energy resilience by reducing dependence on fossil fuels and accelerating the transition to renewable energy sources. Through these measures, the Green Deal Industrial Plan aims to position the EU as a global leader in the green economy and ensure a sustainable future for all its citizens. All these measures are directly relevant in the discussion about corporate tax harmonization. Since tax subsidies mainly come in the form of corporate tax rebates, they could be embedded in EU secondary legislation, as the Commission has already proposed regarding the "debt-equity bias reduction allowance" (DEBRA), a tax incentive to facilitate direct finacing of EU businesses.[40]

Another issue regards the compatibility of existing EU harmonization measures in the area of taxation with the intent to foster industrial policy. For example, we believe that an area that requires serious reconsideration concerns the interest limitation rules included in Art. 4 of the Anti Tax Avoidance Directive.[41] While we stress that this provision is an integral and indispensable part in the broader arsenal of measures against profit shifting – still a large problem in international taxation[42] - the current design of the rule could be somewhat detrimental to the EU ambitions to reach its Fit for 55 goals. In

[37] European Commission (2021b), OJ C 153/1, Guidelines on regional State aid.
European Commission (2021e), COM(2021) 223 final, Proposal for a regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market.
[38] European Commission (2021c), Guidelines on State aid for climate, environmental protection and energy 2022.
[39] (COM(2023) 62 - February 2023.
[40] European Commision, Proposal for a directive on laying down rules on a debt-equity bias reduction allowance and on limiting the deductibility of interest for corporate income tax purposes, COM/2022/216 final.
[41] Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules on tax avoidance practices that directly affect the functioning of the internal market 2016 art 4.
[42] See the discussion and references provided for in sec. 3.4.

fact, there are estimates stressing that to be able to reach these targets, a mind-numbing additional yearly green investment of 520 billion euro is required, of which the main share needs to come from the private sector.[43] Under the plausible assumption that for stemming these substantial investment needs the private sector will have to take out additional debt, there is the possibility that parts of the incurred financing costs cannot be deducted. A feasible way to better address the contradictory functioning of different EU policies would be to include in Art. 4 ATAD a possibility for Member States to carve out from the scope of these interest limitation rules financing costs that accrue on the financing of green investments.

Another set of rules that could be amended from a similar perspective is the Controlled Foreign Company (CFC) rules included in Art. 7-8 ATAD. These rules are technically difficult, but in essence lead to an inclusion of parts of the income of a foreign subsidiary (or permanent establishment) into the tax base of the parent company (head office) upon the income being taxed too low in the other State. Importantly, what matters in this regard is the comparison of the foreign tax paid with the tax that would have been paid in the parent (head office) state; the latter being a number that is calculated based on the tax base rules applicable in the latter Member State. In case the subsidiary (permanent establishment) state is granting a tax incentive that the parent company (head office) state does not grant, these rules may more easily be triggered as the tax base in the source state becomes lower than the tax base in the residence state, bringing the overall tax burden of the subsidiary (permanent establishment) in the parent entity (head office) state terms closer to the threshold of applying CFC rules. The larger the incentive, the larger its influence in this regard. Although in the EU this is less of a problem, as the so-called "substance carve-out" included in the rules will get real industrial operations

[43] The EU is about to clearly miss its self-set Fit for 55 goals towards reaching a reduction of net greenhouse gas emissions of 55% by 2030 relative to 1990 levels and the achievement of climate neutrality by 2050. Projections indicate that, even with the additional policies and measures that Member States intend to launch in the coming years, only a reduction by 41% will be reached by 2030. What is needed to turn this trend around is an increase in the carbon price. Furthermore, it needs a substantial increase in green investments, which estimates suggest that merely for ensuring the achievement of the Fit for 55 goals there is a *yearly additional* green investment need until 2030 of around EUR 520 billion. See Council, 'Council' (*Fit for 55*, 2 June 2023) <https://www.consilium.europa.eu/en/policies/green-deal/fit-for-55-the-eu-plan-for-a-green-transition/> accessed 13 June 2023; Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') 2021 (OJ L). European Environment Agency, *Trends and projections in Europe 2022*. (Publications Office, 2022). European Central Bank, 'The Climate Change Challenge and Fiscal Instruments and Policies in the EU' (2023); European Central Bank, 'The Climate Change Challenge and Fiscal Instruments and Policies in the EU' (2023); European Commission, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Kick-starting the journey towards a climate-neutral Europe by 2050 EU Climate Action Progress Report 2020.

out of the scope of the rules,[44] this carve-out is not mandatory for third states. Here this effect could emerge with the end result of the EU taxing away a green tax incentive granted by another state. That being said, the provision of a green-incentive carve-out in CFC rules should be approached with caution, as it can make the application of CFC rules even more complex. Apart from that, it is not clear whether the foreign incentive is, indeed, worth being protected. A more closer examination would be necessary, should there be interest in choosing this policy alternative.

In the same vein, the above considerations brought forward with respect to CFC regimes are relevant – and maybe even more important – with respect to the EU's minimum taxation directive, which provides for a less far-reaching substance carve-out and which can, when such incentives are granted, also apply in the EU.[45] Nevertheless, we do not think that it would make sense for the EU to update this directive to this end, unless there is a broader international consensus to do so. After all, the EU here is merely implementing a global framework, which 134 States have endorsed and which, to properly function, should not be implemented differently.[46]

3.3. Harmonization of Corporate tax (and setting a corporate contribution for financing the green industrial transition)

A significantly more far-reaching, and from the perspective of steering, a significantly better approach would lie in the harmonization of corporate tax rules at an EU level. Certainly this may sound utopic, in particular as such endeavours have been discussed for a long time[47] and were also the object of a number of Commission proposals – each unsuccessful.[48] However, the chances for such an initiative to

[44]To be clear, there is still an administrative disadvantage connected to falling under the CFC threshold even if a substance carve out is ultimately applicable, as it would demand acquiring and processing the relevant information to be able to establish the availability of this exception.

[45] Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union 2022.

[46] Inclusive Framework, 'Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy – 8 October 2021'.

[47] Compare, e.g. the discussion in Jorge Núñez Ferrer and others, 'Study on the Potential and Limitations of Reforming the Financing of the EU Budget' [2016] Report for the HLGOR; Fabien Candau and Jacques Le Cacheux, 'Taming Tax Competition with a European Corporate Income Tax' <https://papers.ssrn.com/abstract=2939938> accessed 6 April 2023; Schratzenstaller and others (n 24). Frans Vanistendael, 'An EU Corporate Income Tax Filling the Hole in the EU Budget: An End to Tax Competition and "Tax Abuse"?' (2021) 11/12 Bulletin for Internatinal Taxation; Philip Schweizer, *Die Körperschaftsteuer Als Eigene EU-Steuer - Finanzwissenschaftliche Untersuchung Möglicher Modellcharakteristika Einer Europäischen Körperschaftsteuer* (WU Wien 2012).See comprehensively, including references to earlier contributions, also Schweizer.

[48] See, for the 2008 proposal of the CCCTB, Proposal for a COUNCIL DIRECTIVE on a Common Consolidated Corporate Tax Base (CCCTB) /* COM/2011/0121 final - CNS 2011/0058 */ 2011. For the 2016 proposal: Proposal for a COUNCIL DIRECTIVE on a Common Corporate Tax Base COM/2016/0685 final - 2016/0337 (CNS) 2016. and Proposal for a COUNCIL DIRECTIVE on a Common Consolidated Corporate Tax Base (CCCTB) 2016. See further already the 1975 proposal European

succeed now seem larger than ever before, since with the above-mentioned recently implemented EU Minimum Tax Directive rules on corporate tax base calculation now already exist. While it is true that these rules apply aside from the ordinary tax system and are relevant only for corporations with an annual turnover of 750 million euro, they provide a starting point for the development of common corporate tax rules.

The actuality of the corporate tax harmonization is, not least, evidenced by there being also an active Commission proposal, the Business in Europe: Framework for Income Taxation (BEFIT) directive.[49] Meant to be obligatory for large groups,[50] and optional for small ones,[51] the BEFIT framework aims at achieving harmonization of essential features of the CIT base.[52] This would provide the EU legislator with a vehicle to impose a common corporate tax policy aiming at advancing its industrial policy agenda. However, in its current state, the proposal includes a provision in Art. 48(2) of the proposed directive that would allow Member States to (again) apply their own rules to what is allocated to them as a share of the income that they can tax.[53] This would then frustrate the whole proposal as the factual level of harmonization reached can be rather low.

We developed an alternative proposal and suggest to provide for a far-reaching harmonization of the corporate tax base, which should serve as a basis for a corporate tax based own resource (Scherleitner & Traversa 2024a). Unlike BEFIT, our proposal is not limited to large corporations but encompasses the whole corporate sector. It is built on a two-tier structure: first, via a directive based on Art. 115 TFEU, the corporate income tax is harmonized, leaving open a limited number of options as to how Member States

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Commission, 'Proposal for a Council Directive Concerning the Harmonization of Systems of Company Taxation and of Withholding Taxes on Dividends. COM (75) 392 Final, 23 July 1975. Bulletin of the European Communities, Supplement 10/75' EU Commission - COM Document <https://aei.pitt.edu/5570/> accessed 19 June 2023.

[49] Proposal for a COUNCIL DIRECTIVE on Business in Europe: Framework for Income Taxation (BEFIT) 2023.

[50] The mandatory scope of BEFIT comprises the same groups covered by the minimum tax directive, i.e. groups with an annual revenue exceeding EUR 750 million (Art. 2(1) of the BEFIT proposal). The ownership threshold to be included in the BEFIT group is 75% (Art. 5). For groups headquartered in third countries, a materiality threshold applies with respect to applicability of BEFIT to the EU entities of the group (Art. 2(2)).

[51] The precondition for smaller groups to apply BEFIT is that they prepare consolidated financial statements.

[52] The starting point for the calculation of the income is formed by the financial accounts of the BEFIT group members, which need to be reconciled with the accounting standard of the ultimate parent entity. These so calculated entity level accounts are subjected to tax adjustments that "*are kept to the minimum necessary, rather than putting together a detailed corporate tax framework*." This gives rise to preliminary tax results at the level of BEFIT group members, which are then aggregated into the so-called BEFIT tax base, which is then allocated to each Member State where the group is present. The allocation takes place on the basis of the average of the taxable results in the previous three fiscal years. This allocated part can thereupon be subjected to further additional adjustments on a Member State level, after which the respective Member State can apply its tax rate.

[53] In fact, the current directive proposal includes an extremely far reaching exception in Art. 48(2) of the proposed directive that allows additional adjustments at a Member State level towards them being able to apply any (!) deductions, tax incentives, or base increases to their allocated parts.

can differ; secondly, while the Member States would set their tax rate according to their preferences, there would be an EU corporate tax surcharge that is, based on Art. 311 TFEU, imposed on the so-determined profits. This is then, to be paid to the EU, which results in a factual corporate sector contribution to the EU.

The proposal would provide a suitable vehicle for conducting revenue for EU industrial policy. Furthermore, while under our current proposal the EU corporate tax surcharge would be paid into the general budget, where it could be spent for, factually, anything that the EU wants to spend the money on, it would, if politically desired, also be possible to factually earmark these corporate contributions to be spent solely on relevant industrial policy initiatives.[54] The latter could increase the acceptance of the surcharge in the corporate sector, as the revenues would be recycled back into it. In addition, also the public support for the measure could be positive. In fact, in a 2021 survey covering 13 EU Member States, 50% of respondents would support an EU business tax while only 32% opposed it.[55] This suggests that our proposal – being economically similar to such an (actually legally impossible) business tax - could enjoy similar public endorsement.

3.4. The FINE-for-EU framework: a green partnership between the private and public sector

Another proposal concerns the so called "Financial Instrument for New pan-European Environmental Undertakings," (FINE-for-EU), which is a model that should advance the financing of pan-European green investments (Scherleitner & Traversa 2024b). The latter are projects that add value primarily on a European level without leading to tangible backflows of funds to the Member States. Keeping in mind the above-mentioned juste retour forces,[56] such projects tend to be underfinanced. The FINE-for-EU

[54] While in a different setting, see further on the phenomenon, e.g. Liam F Beiser-McGrath and T Bernauer, 'Could Revenue Recycling Make Effective Carbon Taxation Politically Feasible?' (2019) 5 Science Advances <https://consensus.app/papers/could-revenue-recycling-make-carbon-taxation-politically-beiser%E2%80%90mcgrath/b762d0b4e46f5bc78a27436d603d7ffa/> accessed 14 June 2024.

[55] Anton Hemerijck and others, 'SiE Survey Dataset on Solidarity in Europe (2021)' <https://search.gesis.org/research_data/SDN-10.7802-2508?doi=10.7802/2508> accessed 23 February 2023., with the rest, i.e. 18% being undecided. In 2020, the support was roughly the same, with 50% support, 31%oppostion and 19% undecided. These values are rather similar to the previous year. Anton Hemerijck, Philipp Genschel and Lorenzo Cicchi, 'SiE Survey Dataset on Solidarity in Europe (2020)' <https://search.gesis.org/research_data/SDN-10.7802-2509?doi=10.7802/2509> accessed 24 February 2023. According to Hemerijck and others., the net support would be negative in Denmark (32% vs. 43%), and only slightly positive in Sweden (39% vs. 38%) and Finland (43% vs. 37%). On the other hand, there would be overwhelming support in Greece (61% vs. 26%), Spain (62% vs. 27%), and Hungary (59% vs. 27%). Support would also be high in Lithuania (57% vs. 31%) and in Germany (54% vs. 24%). To be clear, the same survey reveals that the support for a tax on the revenue of large internet cooperations would be even higher. In 2021, 60% of respondents were in favor and only 23% opposed it. See A. Hemerijck, P. Genschel, L. Cicchi, & M. Nasr" SiE survey dataset on solidarity in Europe" (2021), with the rest, i.e. 18% being undecided. These values are rather similar to the previous year. See 2020. While it is again the Nordic countries that tend to express relatively less support the values are nonetheless clearly positive. Hemerijck and others. The least support is found in Sweden (45% vs. 31%). The highest support is found in France (71% vs. 16%).

[56] Sec. 2.2.

framework aims to circumvent these net-balance thinking restrictions by relying on a legal architecture that keeps the funds remaining outside the EU budget and, thus, outside these forces. Inspired by the Single Resolution Fund (SRF) existing in the banking sector, we propose setting up a Pan-European Climate Fund that creates a financial link between the benefits derived from the European legal framework for cross-border business activities and the specific responsibilities that businesses enjoying these freedoms have in supporting climate objectives.

The idea is to finance the Pan-European Climate Fund by the so-called "climate contributions" charged to pan-European businesses. The amount of each contribution would be calculated on a regular basis by the Pan-European Climate Fund Board, which would also own and manage the fund. The fund would be obligated to spend the money on pan-European green investments. Being equipped with the relevant expertise, the investments would be determined by the Pan-European Climate Fund Board, which should be legally obliged to orientate spending on maximising the promotion of the Fit for 55 goals. Distributional aspects between Member States may be considered in this regard. However, they are of secondary relevance, meaning that (only) if an investment with the overall highest marginal benefit can be effected in more than one region, the per capita value of Pan-European Climate Fund expenditure provided for the respective regions is to be taken into account, whereby equal distribution of the investments should be strived for. The spending decisions must be transparent, well-reasoned and be audited by the European Court of Auditors. Due to the climate contributions flowing directly into a dedicated fund, they, similarly to the SRF, do not enter the budget (which means that a separate decision on earmarking funds that have already entered the budget is not necessary). As with the SRF, the payments to the Pan-European Climate Fund would have some sort of social insurance character if, as we will also suggest, the payments made to the fund are linked to contributors' emissions and, as immanent in the model, the money is spent on policies and projects that help reduce emissions or their consequences.

The normative foundation of the model is the following. When the overarching goal of the model is the collection of money for helping to achieve the Fit for 55 goals through the provision of additional climate-related pan-European public goods, it appears sensible to demand pan-European actors to take responsibility for financing such pan-European policy. After all, they benefit from the EU legal framework enabling and enhancing the conducting of cross-border operations, in the course of which they also cause significant emissions – both directly as a result of their business operations but also

indirectly, e.g. through lobbying activities for softer regulatory policies.[57] In fact, 60% of total industrial emissions are caused by only 157 large Multinational Enterprises (MNEs),[58] which significantly outweigh their global share in economic output.[59] Furthermore, in 2022 MNEs invested 5 trillion US dollars in activities that are harmful to nature. This is a staggering 140 times larger investment than private sector investments in nature-based solutions.[60] On the other hand, it would not go too far to argue that on a macro-level, at least, MNEs have been reacting to and exploiting the weaknesses of the tax system.[61] Their setting up of inefficient tax-driven structures has given rise to welfare losses[62] and has partly put pressure on the immobile tax base to compensate for the foregone public revenue that is needed to address climate change or its consequences.[63] These numbers are substantial: as estimated by Tørsløv et al. (2023),[64] in 2015, MNEs shifted 36% of their profits to tax havens globally. In absolute terms and using 2019 data, this concerns about 1 trillion US dollars.[65] Demanding a stronger contribution from this sector, thus, may be perceived as well justified.

Apart from that, in the current proposal, the model is structured to be applied mainly to economic rents. This could mean that the model has an overall progressive effect, since in such a setting the incidence of the climate contribution tends to fall on shareholders[66] and, in the presence of rent sharing with workers, also the latter.[67] When assuming, in line with literature, that shareholders tend to be more

[57] See further, e.g. Sylvain Laurens, *Les courtiers du capitalisme* (Agone 2015) <http://www.cairn.info/les-courtiers-du-capitalisme--9782748902396.htm> accessed 26 June 2023; Defraigne and Nouveau (n 28); Haitao Yu, Pratima Bansal and Diane-Laure Arjaliès, 'International Business Is Contributing to Environmental Crises' (2023) 54 Journal of International Business Studies 1151.

[58] So, when taking into account MNEs own emissions (scope 1 and 2), and the emissions from their supply chains (scope 3) V. Steenbergen and A. Saurav, *The Effect of Multinational Enterprises on Climate Change: Supply Chain Emissions, Green Technology Transfers, and Corporate Commitments* (2023) p. 11 et seq.

[59] V. Steenbergen and A. Saurav, *The Effect of Multinational Enterprises on Climate Change: Supply Chain Emissions, Green Technology Transfers, and Corporate Commitments* (2023) p. 11 et seq.

[60] United Nations Environment Programme, *State of Finance for Nature 2023: The Big Nature Turnaround - Repurposing $7 Trillion to Combat Nature Loss* (United Nations Environment Programme 2023) <https://wedocs.unep.org/20.500.11822/44278> accessed 21 March 2024.

[61] J.H. Heckemeyer & M. Overesch, 'Multinationals' profit response to tax differentials: Effect size and shifting channels' (2017) 50(4) *The Canadian Journal of Economics / Revue Canadienne d'Economique*, pp. 965–94; E. Crivelli, R. De Mooij, & M. Keen, 'Base Erosion, Profit Shifting and Developing Countries' (2016) 72(3) *FinanzArchiv / Public Finance Analysis*, pp. 268–301; D. Dharmapala, 'What Do We Know about Base Erosion and Profit Shifting? A Review of the Empirical Literature' (2014) 35(4) *Fiscal Studies*, pp. 421–48; S.L. McGaughey & P. Raimondos, 'Shifting MNE taxation from national to global profits: A radical reform long overdue' (2019) 50(9) *Journal of International Business Studies*, pp. 1668–83.

[62] E.g. Nicolai J Foss, Ram Mudambi and Samuele Murtinu, 'Taxing the Multinational Enterprise: On the Forced Redesign of Global Value Chains and Other Inefficiencies' (2019) 50 Journal of International Business Studies 1644.

[63] See more broadly, e.g. Devereux and others (n 4) s 2.

[64] Thomas Tørsløv, Ludvig Wier and Gabriel Zucman, 'The Missing Profits of Nations' (2023) 90 The Review of Economic Studies 1499.

[65] Ludvig Wier and Gabriel Zucman, 'Global Profit Shifting, 1975-2019' (National Bureau of Economic Research 2022) w30673 <http://www.nber.org/papers/w30673.pdf> accessed 27 June 2023.

[66] Devereux and others (n 4); IMF, 'Tax Policy for Inclusive Growth after the Pandemic' (2020).

[67] W.G. Gale & S. Thorpe, 'Rethinking the Corporate Income Tax: The Role of Rent Sharing' (2022) *SSRN Electronic Journal*.

affluent[68] and that rents are disproportionally shared with high-income workers,[69] a contribution targeting rent-earning corporations could have an overall progressive effect.[70] If our assumptions hold, the result would be remarkable since both the effects of climate change[71] and, typically, environmental taxes tend to have regressive outcomes.[72] A measure that breaks with this logic and increases progressivity in the system and decreases the regressive consequences of climate change could be politically very appealing.

Concerning the distribution of the payments among the businesses in scope, we propose to reflect on the values the model stands for. First of all, the Climate Fund Board is to set a specific funding goal that needs to be reached in a certain year. This goal is to be bound to the overall performance of the EU with respect to the achievement of the Fit for 55 goals and the current state of the green investment needs that are required to ensure that these targets are reached. From there, a share needs to be allocated to the businesses in the scope of the measure. We suggest this to be based on (i) the need for pan-European green investment projects, and (ii) the overall emissions caused by the businesses in scope. This setting should give rise to a macro incentive for the whole sector to lobby in favour of stricter climate policies (as this may decrease the overall green investment need)[73] and to strive towards decreasing the overall emissions of the business sector (as this decreases the share allocated to them). The latter, especially, should foster cross-industrial co-operations, which has been regarded as a key factor in promoting sustainability.[74] The precise allocation of yearly payment obligations among the businesses in scope is to happen via a formula that implements the values of the model: pan-European

[68] Devereux and others (n 4); IMF (n 62); Thomas Piketty, Emmanuel Saez and Gabriel Zucman, 'Distributional National Accounts: Methods and Estimates for the United States*' (2018) 133 The Quarterly Journal of Economics 553; Emmanuel Saez and Gabriel Zucman, 'A Wealth Tax on Corporations' Stock' (2022) 37 Economic Policy 213.
[69] Gale and Thorpe (n 63).
[70] To safeguard this effect, it may be feasible to rely on minimum profitability thresholds. See on this sec. 3.3.
[71] Nicolas Taconet, Aurélie Méjean and Céline Guivarch, 'Influence of Climate Change Impacts and Mitigation Costs on Inequality between Countries' (2020) 160 Climatic Change 15.
[72] Corbett A Grainger and Charles D Kolstad, 'Who Pays a Price on Carbon?' (2010) 46 Environmental and Resource Economics 359.
[73] We perceive this to be one of the main arguments that speak in favour of the adoption of the model because, when MNEs lobby in favour instead of against stricter climate policies, this might have a substantial effect. J. Child & T. Tsai, 'The Dynamic Between Firms' Environmental Strategies and Institutional Constraints in Emerging Economies: Evidence from China and Taiwan*' (2005) 42(1) *Journal of Management Studies*, pp. 95–125; B. Eberlein & D. Matten, 'Business Responses to Climate Change Regulation in Canada and Germany: Lessons for MNCs from Emerging Economies' (2009) 86(2) *Journal of Business Ethics*, pp. 241–55; A. Kolk & J. Pinkse, 'Multinationals' Political Activities on Climate Change' (2007) 46(2) *Business & Society*, pp. 201–28; S. Patnaik, 'A cross-country study of collective political strategy: Greenhouse gas regulations in the European Union' (2019) 50(7) *Journal of International Business Studies*, pp. 1130–55.
[74] Jan Anton van Zanten and Rob van Tulder, 'Multinational Enterprises and the Sustainable Development Goals: An Institutional Approach to Corporate Engagement' (2018) 1 Journal of International Business Policy 208; Vladislav Maksimov, Stephanie Lu Wang and Shipeng Yan, 'Global Connectedness and Dynamic Green Capabilities in MNEs' (2022) 53 Journal of International Business Studies 723.

businesses taking adequate responsibility for the promotion of the Fit for 55 goals through financing pan-European investment. As such, the distribution mechanism should include parameters on size (reflected by profits and turnover), tax aggressiveness (reflected by a suitable value measuring this), and pollution (reflected by absolute emissions and the relative developments of emissions). Ultimately, larger, more tax-aggressive, and more polluting MNEs should pay more. The latter formula could be adapted towards including further steering effects on a micro level, with the help of which further industrial policy goals could be advanced. This could involve, for instance, the setting of sector-specific subgoals, the achievement of which would be rewarded with lower climate contribution payments.

In addition, we suggest to consider giving paying MNEs a voice in deciding how the money is spent. For instance, the Pan-European Climate Fund Board may narrow the projects that can be considered for financing among which MNEs can choose.[75] Similarly, when feasible, MNEs can also be given the opportunity to provide for contributions in kind. The rationale behind this inclusion of MNEs in the process is the notion of empowerment steered towards increasing acceptance by MNEs. Furthermore, it could allow the MNEs to reap the goodwill created through the payment as a part of their ESG strategy. While these payments would result from a legal obligation, it is not per se a novelty for legislators to legally impose corporate social responsibility duties on MNEs.[76] At the core is, ultimately, a phenomenon well expressed in literature, that is, MNEs can and should be natural partners for governments in achieving a green transition.[77]

4. Conclusion: bold proposals, but something must happen

The proposals we made are bold – and so are the challenges ahead of us. After decades of costly crises, we are confronted with strong geopolitical tensions and, with the climate change we face an existential threat to our species. Money is needed and it has to come from somewhere. We are not the ones making such decisions. However, those who are vested with the democratic legitimacy to address these challenges benefit from a broader debate; and as academics, we are granted the resources to develop and propose models that may advance this process. The policy measures discussed in this paper can

[75] In this regard, it should be the MNE´s management that is involved in the process, as this may form part of the MNE´s overall CSR strategy.
[76] Consider in this regard particularly the Commission´s proposal for a Corporate Sustainability Due Diligence directive European Commission, Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 2022..
[77] Michael Nippa, Sanjay Patnaik and Markus Taussig, 'MNE Responses to Carbon Pricing Regulations: Theory and Evidence' (2021) 52 Journal of International Business Studies 904.

play a role in addressing these challenges by allowing revenue-side policies to better support a European industrial policy agenda and, what concerns options 2 and 3, by raising funds from the corporate sector that can indirectly flow back to it via industrial policy initiatives.

We do accept that it may not be easy to implement the proposals made. However, we urge the reader to consider that it is less of a question of whether something needs to be done. Rather, given the yearly cost of climate change being already at 38 trillion dollars,[78] it seems clear the question is only how we should react. People expect action. Besides the national governments (63%), it is also the EU (57%) as well as businesses and industry (58%) that people believe are in charge of addressing climate change.[79] They should live up to this expectation.

[78] Maximilian Kotz, Anders Levermann and Leonie Wenz, 'The Economic Commitment of Climate Change' (2024) 628 Nature 551.
[79] European Commission, n. 9 above p. 27., answering to the question: "In your opinion, who within the EU is responsible for tackling climate change?" with multiple answers being possible.