



Donderdag 25 april 2024 – Kortrijk

Info seminarie



WELKOM OP DUURZAAMHEID IN DE TRANSPORTSECTOR

25/04/2024

BDO Belgium

WELCOME



JAN-KLAAS SOMERS
SENIOR ESG CONSULTANT



AGENDA

INTRODUCTIE
DUURZAAMHEID

10 min



DE DRIJFVEREN

10 min



EU WETGEVING

10 min



DE TRANSPORT-
SECTOR

15 min



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15 min



“Development that meets the needs of the present without compromising the ability of future generations to meet their own needs’.

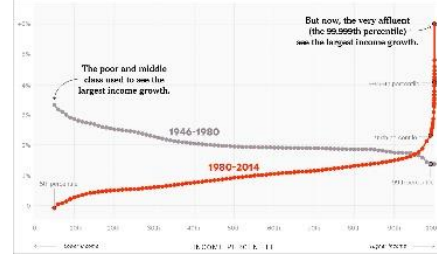
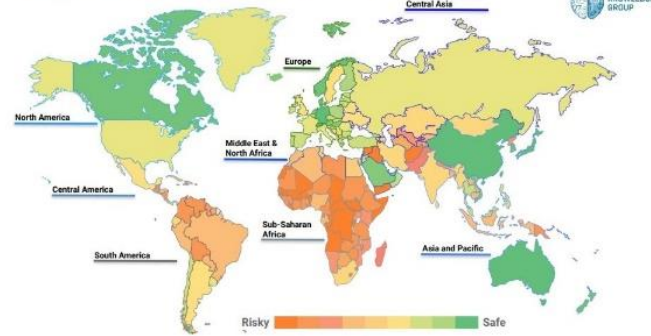
””

Brundtland, 1987



WELVAART EN VOORUITGANG...

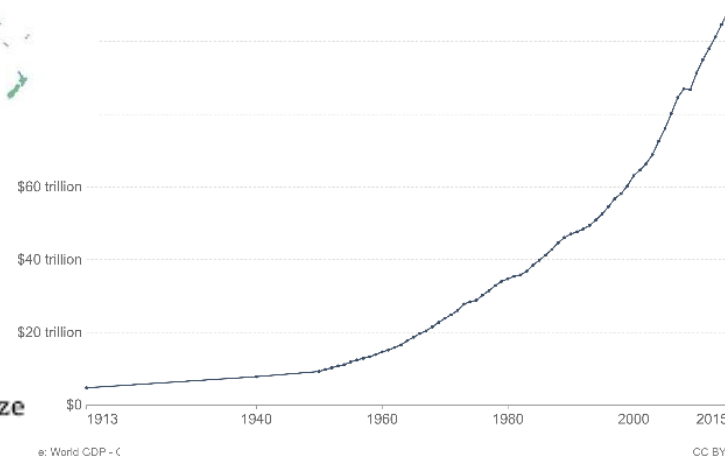
Safety Score of 200 Regions and Territories



CBS: Ook inkomens stijgen (niet alleen het BBP)

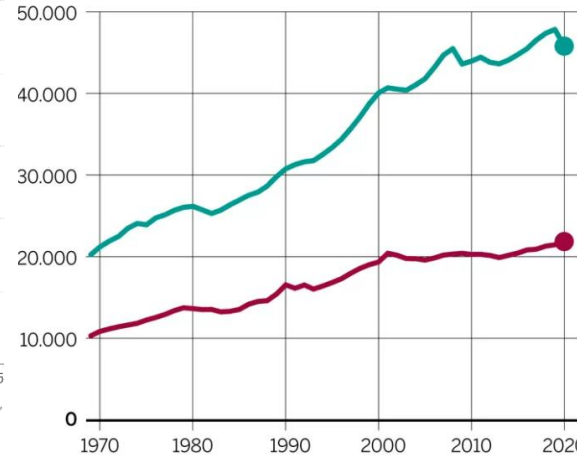
DP over the last two millennia

the world economy, adjusted for inflation and expressed in international-\$ in 2011 prices.



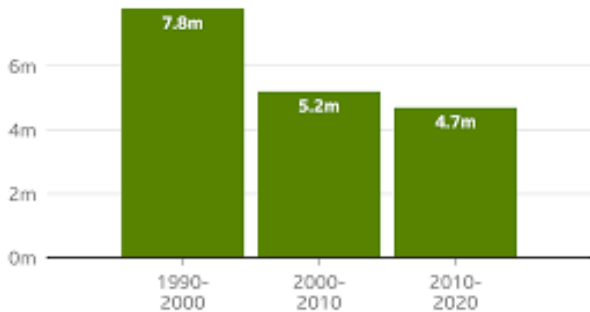
Our World in Data

Legend: Bbp per persoon (Teal), Netto beschikbaar inkomen huishouden per hoofd (Pink)



The world's forests are still decreasing in size

Average area of forest lost each year by decade (hectares)



Figures are for net change in area
Source: UN Food and Agriculture Organisation, 2020



- 1 Malware
- 2 Web-based attacks
- 3 Phishing
- 4 Web application attacks
- 5 Spam

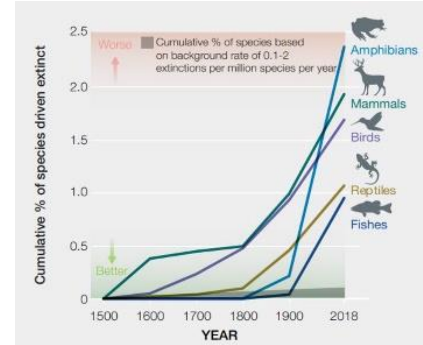
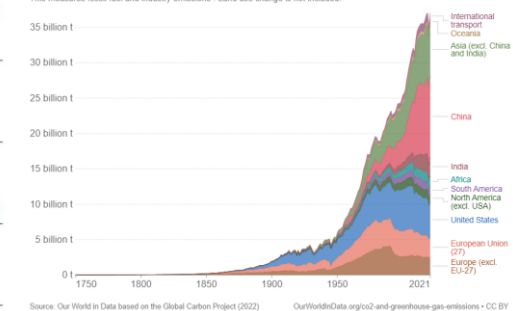
TOP 15 CYBER THREATS

- 6 DDoS
- 7 Identity theft
- 8 Data breach
- 9 Insider threat
- 10 Botnets
- 11 Physical manipulation, tampering, theft and loss
- 12 Information leakage
- 13 Ransomware
- 14 Cyberespionage
- 15 Cryptjacking



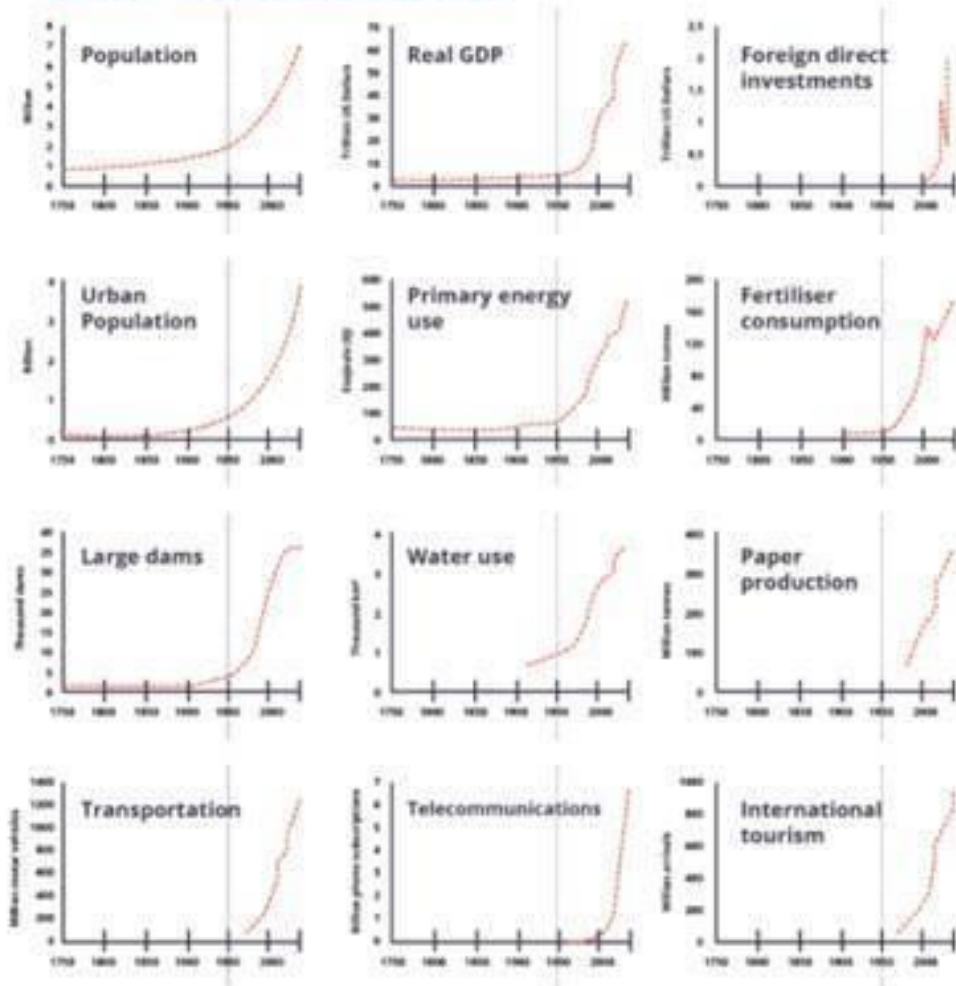
Annual CO2 emissions by world region

This measures fossil fuel and industry emissions*. Land use change is not included.

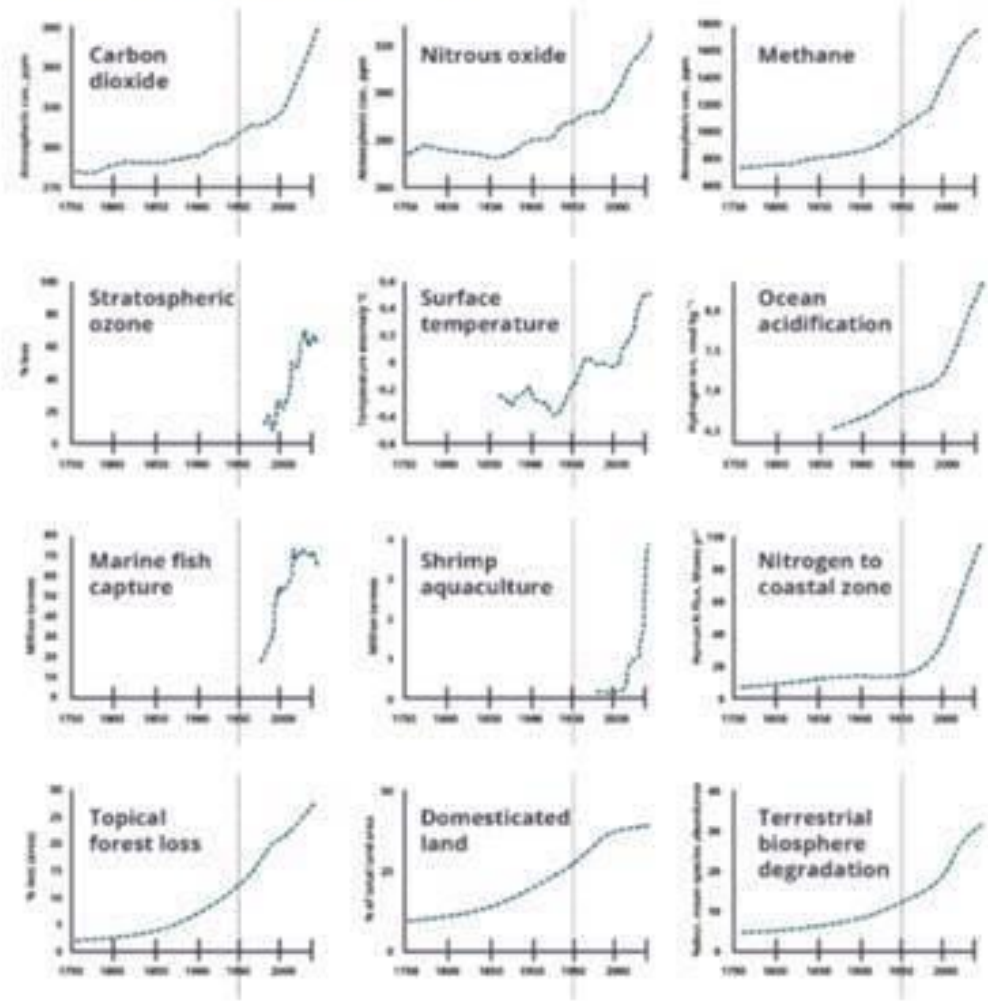


“THE GREAT ACCELERATION”

Socio-economic trends

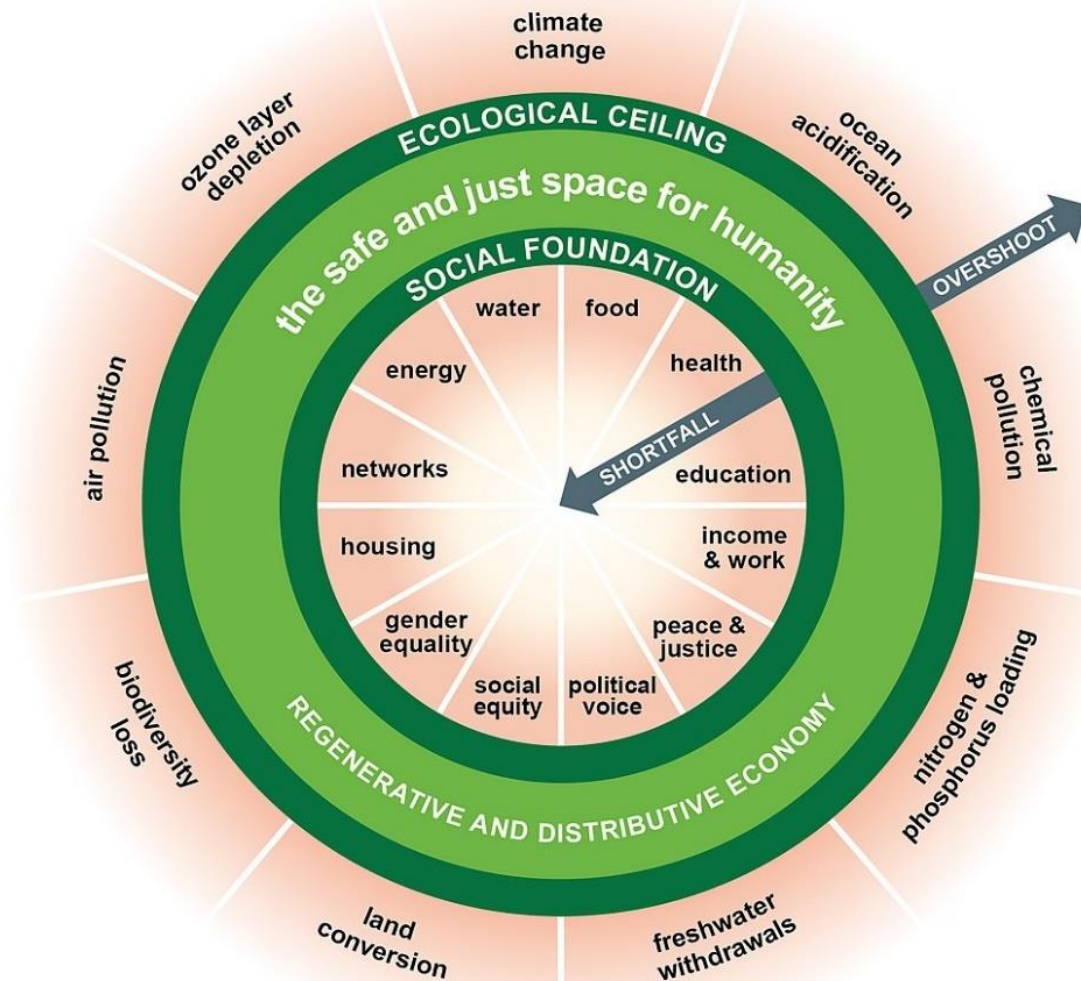


Earth system trends





THE DOUGHNUT ECONOMY



(Raworth, 2017)

DUURZAAMHEID MEETBAAR MAKEN



Environmental

Climate change	Natural Resources	Pollution & Waste	Environmental Opportuntiy
Carbon Emission & Energy Usage	Water Stress	Toxic Emission & Waste	Clean Tech
Product Footprint	Biodiversity & Landuse	Packing Material & Waste	Green Building
Financial impact	Raw Materials & Ciruclarity	Electronic Waste	Renewable Energy
Climate Change Action			

Social

Human Capital	Product Liability	Stakeholder Mngt	Social Opportuntiy
Workforce management	Product Safety & Quality	Controversial sourcing	Access to communication
Wellbeing	Financial Product Safety	Supplier mngt	Access to finance
Diversity, Equity & Inclusion	Responsible Investment		Access to healthcare
Health & Safety	Chemical safety		Nutrition & Health
Human capital development	Privacy & Data Security		
Supply chain labour standards	Health & demo risk		

Governance


Corporate Governance	Corporate Behaviour	Corporate Alliances
Board Quality	Business Ethics	Stakeholder engagement
Board Diversity	Corruption & instability	ESG Alliances
Susta Ownership	Tax transparency	
Executive pay	Anti-compative practises	
Accounting/ Transparency	Financial system instability	
Cyber Security & Data Mgmt		

2015: KLIMAATAKKOORDEN VAN PARIJS



Paris Climate Agreement

PARIS CLIMATE AGREEMENT

1. 

Limit the avg. global temperature increase to $< 2^{\circ}$ centigrade + achieve net zero emissions by mid-century

2. 

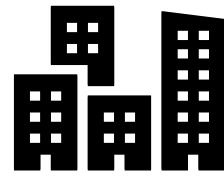
Enhance resilience and adaptation to climate impacts certain to occur

3. 

Align financial flows in the world with these objectives



WIE & HOE VERANDEREN? REWIRING THE ECONOMY!



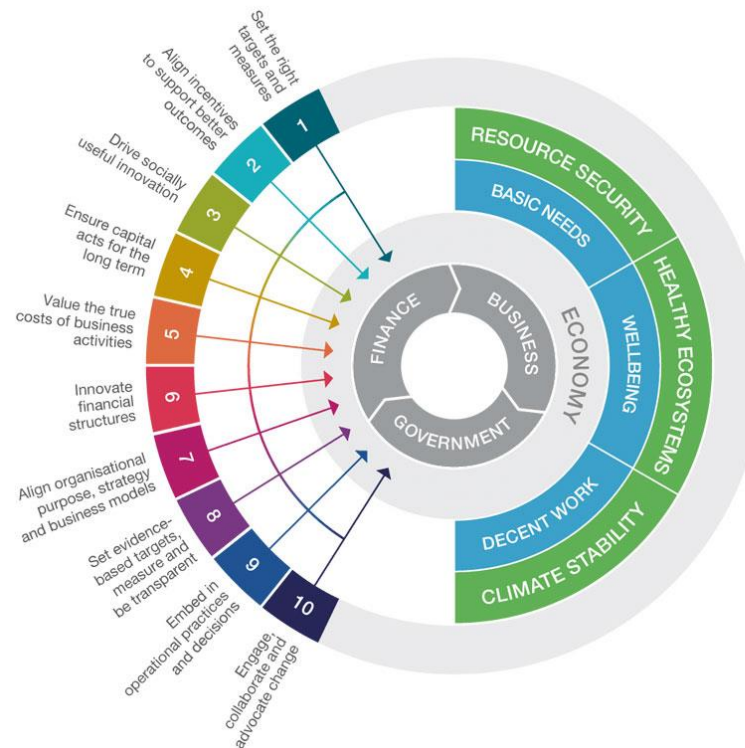
Business



Government



Finance



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SOME PROFESSIONAL LITERATURE...

Truck & Business

MAGAZINE

100% TRANSPORT

Wie heeft in 2023 de meeste vooruitgang geboekt?

#287
Maart 2024

De Efficiency

Elektrische bakwagens Technologische vooruitgang niet te stoppen

De eerste generatie elektrische vrachtwagens is al voorhanden en de tweede generatie wordt nu ontwikkeld. Het resultaat? Elektrische vrachtwagens hebben een aantal voordelen op de prijs na...

Geavanceerde technische keuzes

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VOLVO

Het Volvo Aero gamma. Uitgebreide efficiëntie.

Met verlengde en gestroomlijnde cabines voor een efficiënter brandstofverbruik is het Volvo Aero gamma een volgende stap op weg naar zero emissie. Trucks die zijn ontworpen om u verder te brengen en een verschil te maken voor uw bedrijfsresultaat. Het Volvo Aero gamma is verkrijgbaar met elektrische, gas- of dieselaandrijvingen en zit boordevol innovatieve functies om de prestaties te maximaliseren. Uw efficiëntie. Uitgebreid. **Neem contact op met uw lokale dealer of ga naar www.volvotrucks.be.**

Volvo Trucks. Driving Progress

Decarbonisatie

Bio-LNG, bondgenoot van onschatbare waarde

Volgens Volvo Trucks België zal de Belgische markt kampen in 2024. Enerzijds omdat de regulatie van 2023 uitzonderlijk hoog waren door een gestegen prijs voor de invoer van elektriciteit van de landen waar elektriciteit goedkoper is. Anderzijds omdat de prijs voor de invoer van elektriciteit van de landen waar elektriciteit goedkoper is...

Koploper qua elektrificatie in Europa

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Volvo Trucks heeft naar schatting 47,1% van de markt voor elektrische trucks in handen.

Caroline Van der Pijpe van Volvo Trucks België is de Belgische koploper op het gebied van elektrische vrachtwagens.



SUSTAINABILITY DRIVERS - WHY IS IT IMPORTANT FOR MY COMPANY



**ACCESS TO
FINANCE**

**PRESSURE FROM
INVESTORS (VALUE)**

**SUSTAINABLE FINANCE &
LENDING**

GRANTS



**THREATS &
OPPORTUNITIES**

REPUTATION
(unintended) Greenwashing

**LONG TERM RISKS &
OPPORTUNITIES**
Physical and/or Transition

INNOVATION
*Stranded assets, Market
impact*



STAKEHOLDERS

**CLIENTS/ BUSINESS
PARTNERS**

**ESG CRITERIA IN PUBLIC
TENDERS**

WAR FOR TALENT



**REGULATION &
LEGISLATION**

EU FIT FOR '55

**EU REPORTING
REQUIREMENTS *NFRD,*
*CSRD, Taxonomy, SFDR, ..***

**NATIONAL FISCAL
CHANGES**

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LEGAL LANDSCAPE: CSRD AND EU TAXONOMY ARE PART OF THE EUROPEAN GREEN DEAL



WHAT IS ESG REPORTING (NOT)?

ESG reporting requires companies to measure and disclose their performance in three key areas (Environmental, Social and Governance) to enable transparency and accountability

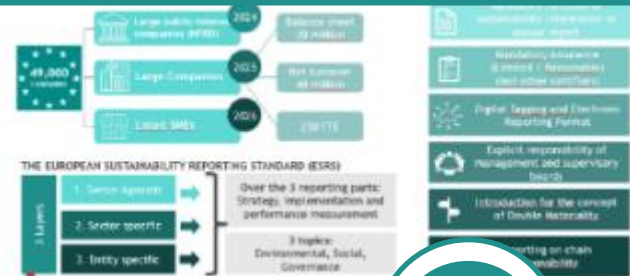
ESG reporting
requires
TRANSPARENCY

ESG reporting does
not require a
**CHANGE IN
BEHAVIOUR**

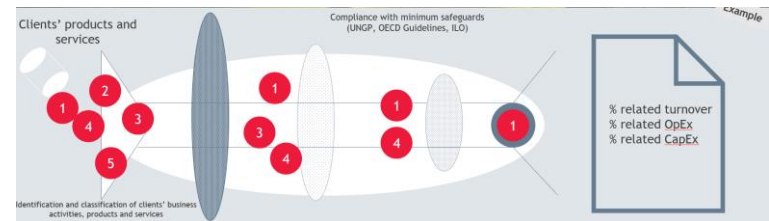
RELEVANT EUROPEAN LEGISLATION



CSRD
Corporate sustainability reporting directive
 Approved



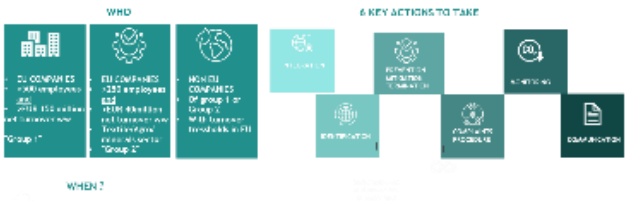
EU TAXONOMY
Sustainable activities Turnover, OPEX & CAPEX
 First set approved



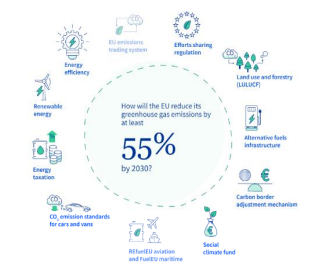
ESRS
European Sustainability Reporting standards
 Approved



CSDDD
Corporate Sustainability Due Diligence Directive
 Draft - timing unclear



FIT FOR 55
Legislation to achieve 55% GHG reduction
 (partly) approved



MOST RELEVANT EUROPEAN REPORTING REQUIREMENTS

Application happens simultaneously
Reporting as part of the annual management report

CSRD
Corporate Sustainability Reporting Directive

“Tell me everything I need to know about sustainability”

EU TAXONOMY

“Between 0 and 100, how sustainable are you?”

MATERIAL TOPICS AND SUB-TOPICS ESRS

Environmental					Social				Governance	Entity
Climate change	Pollution	Water & marine resources	Biodiversity & ecosystems	Resources use and circular economy	Own workforce	Workers in the value chain	Affected communities	Consumers and end-users	Business conduct	E/S/G/F
Climate change adaptation	Pollution of air	Water withdrawals	Direct impact drivers of biodiversity loss	Resources inflows, including resource use	Working conditions	Working conditions	Communities' economic, social and cultural rights	Information-related impacts for consumers and/or end-users	Corporate culture	?
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	Pollution of living organisms and food resources	Water discharges in water bodies and in the oceans	Impacts and dependencies on ecosystem services						Political engagement and lobbying activities	
	Substances of concern	Habitat degradation and intensity of pressure on marine resources							Management of relationships with suppliers incl. payment practices	
	Substances of very high concern								Corruption and bribery	

CORPORATE SUSTAINABILITY REPORTING DIRECTIVE (CSRD) - INTRODUCTION & COMPANIES IN SCOPE

2024



LARGE PUBLIC-INTEREST COMPANIES >500 FTE (NFRD)

2025



LARGE COMPANIES

2026



LISTED SMES
excl. micro-enterprises

2028



NON-EU PARENT COMPANY
>€150M revenue in EU, having a branch in EU with >€40M revenue

Balance sheet
€25M

Net turnover
€50M

250 FTE



Introduction of the concept of Double Materiality



Reporting on chain responsibility



Mandatory inclusion of sustainability information in annual report



Digital Tagging and Electronic Reporting Format



Explicit responsibility of management and supervisory boards



Mandatory Assurance (Limited / Reasonable) (incl other certifiers)

Entities that are part of a larger group are exempted if the mother of that group produces an ESG report in accordance with CSRD (or standards considered equivalent) on a consolidated basis

THE EUROPEAN SUSTAINABILITY REPORTING STANDARDS (ESRS)

THE SECTOR AGNOSTIC STANDARDS

Cross-cutting standards

ESRS 1 - General requirements

ESRS 2 - General disclosures

Topical standards

Environment

ESRS E1: Climate change

ESRS E2: Pollution

ESRS E3: Water and marine resources

ESRS E4: Biodiversity and ecosystems

ESRS E5: Resource use and circular economy

Social

ESRS S1: Own workforce

ESRS S2: Workers in the value chain

ESRS S3: Affected communities

ESRS S4: Consumers and end-users

Governance

ESRS G1 - Business conduct

Guidelines ESRS

Required disclosures regardless of materiality

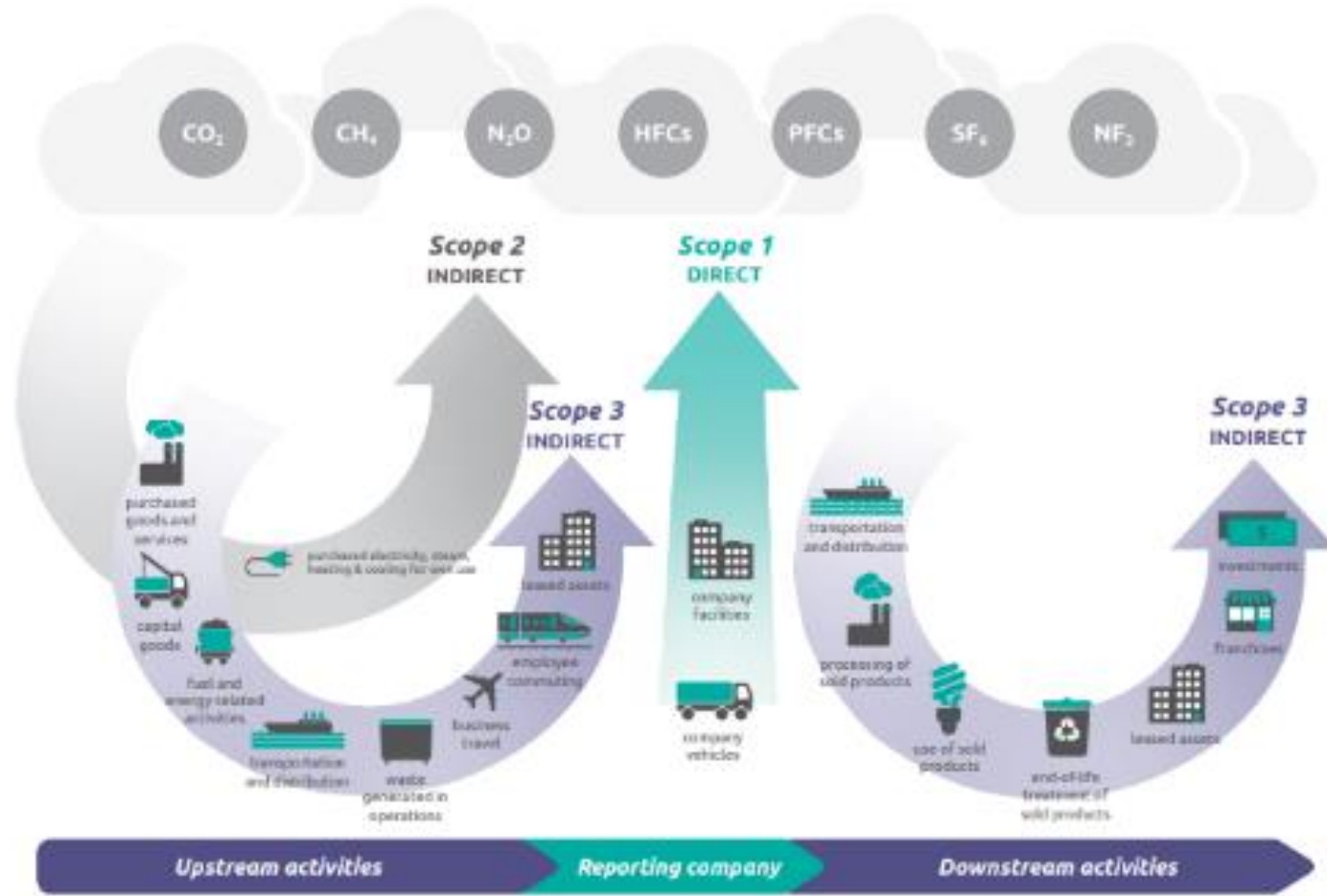
Required if material incl. mandatory requirements by EU Law or CSRD (Taxonomy) - obligated to provide explanation why not material

Required if material incl. mandatory requirements by EU Law or CSRD (Taxonomy) - explanation why not material may be provided

DUBBELE MATERIALITEIT = PRIORITEITEN STELLEN



ESRS E1-6: GROSS SCOPES 1,2,3 AND TOTAL GHG EMISSIONS



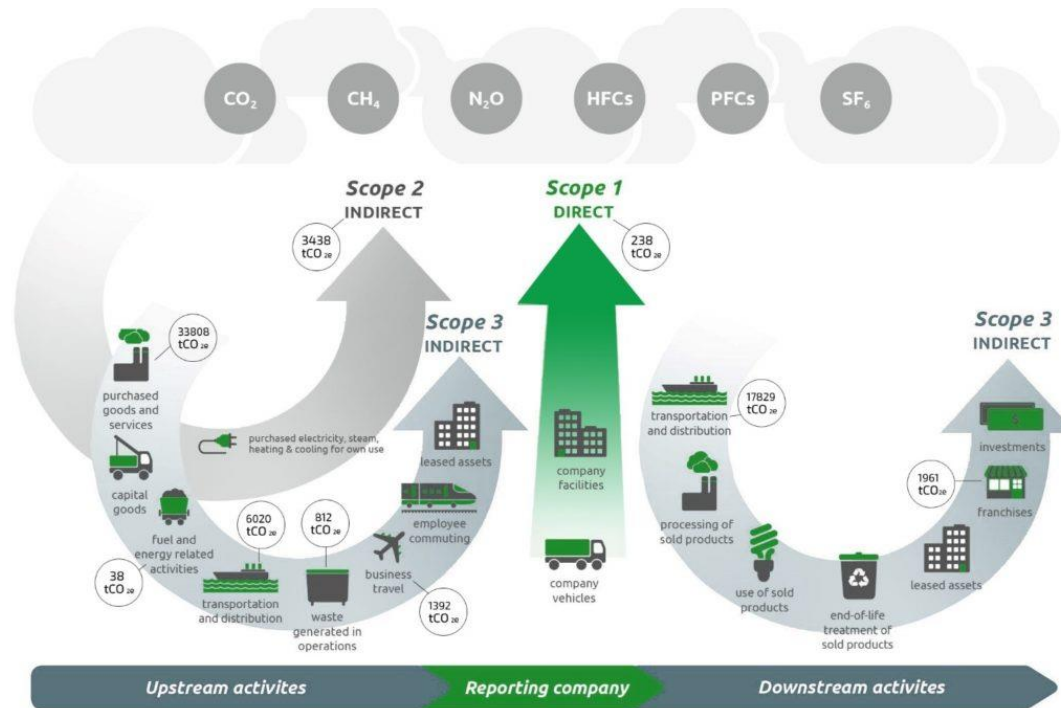
Source: Figure 1.1 of Scope 3 Standard.



SCOPE 1 - 2 - 3 GREENHOUSE GAS



YOU!



EU TAXONOMY

In a nutshell, EU Taxonomy is a **classification system** to determine how **environmentally sustainable** the economic activities of a company are, based on three KPI's: turnover, capital expenditure (CAPEX) and operating expenditure (OPEX)

WHO NEEDS TO DISCLOSE



WHAT TO DISCLOSE



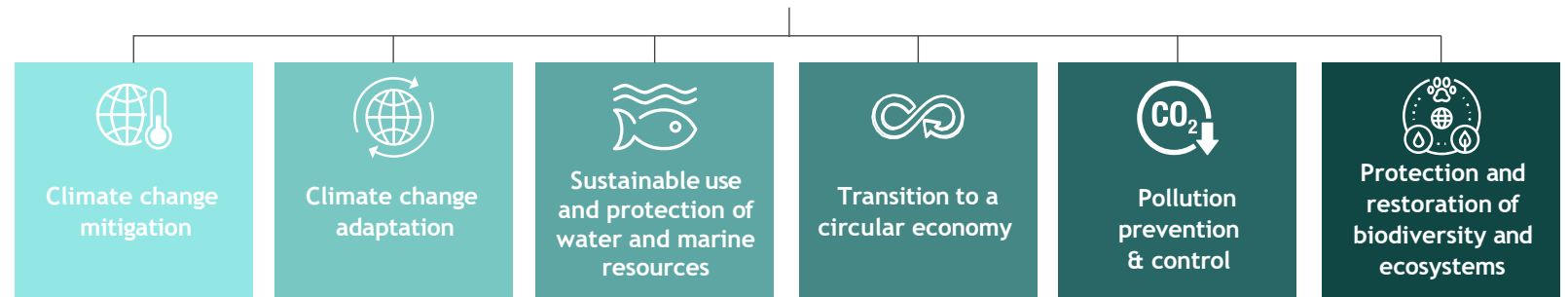
WHERE TO DISCLOSE



3 MAJOR CONDITIONS



6 ENVIRONMENTAL OBJECTIVES



SOCIAL OBJECTIVES UNDER DEVELOPMENT

EU TAXONOMY COMPASS

Transport	Air transport ground handling operations	⊕	
Transport	Airport infrastructure		⊕
Transport	Freight rail transport	⊕	T ⊕
Transport	Freight transport services by road	⊕	T ⊕
Transport	Infrastructure enabling low carbon water transport	⊕	E
Transport	Infrastructure enabling low-carbon road transport and public transport	⊕	E
Transport	Infrastructure enabling road transport and public transport		
Transport	Infrastructure for personal mobility, cycle logistics	⊕	E
Transport	Infrastructure for rail transport	⊕	E

Freight transport services by road

Contributing to climate mitigation ^

Description v

Substantial contribution criteria v

Do no significant harm criteria v

Contributing to climate adaptation v

Minimum safeguards v

Description ^

Purchase, financing, leasing, rental and operation of vehicles designated as category N1, N2⁽²⁶⁹⁾ or N3⁽²⁷⁰⁾ falling under the scope of EURO VI⁽²⁷¹⁾, step E or its successor, for freight transport services by road.

The economic activities in this category could be associated with several [NACE](#) codes, in particular H49.4.1, H53.10, H53.20 and N77.12 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.

Where an economic activity in this category does not fulfil the substantial contribution criterion specified in point (1)(a), (1)(b) or (1)(c)(i) of this Section, the activity is a transitional activity as referred to in Article 10(2) of Regulation (EU) 2020/852, provided it complies with the remaining technical screening criteria set out in this Section.

EU TAXONOMY COMPASS

Substantial contribution criteria ^

1. The activity complies with one of the following criteria:

- a. vehicles of category N1 have zero direct (tailpipe) CO2 emissions;
- b. vehicles of category N2 and N3 with a technically permissible maximum laden mass not exceeding 7,5 tonnes are 'zero-emission heavy-duty vehicles' as defined in Article 3, point (11), of Regulation (EU) 2019/1242;
- c. vehicles of category N2 and N3 with a technically permissible maximum laden mass exceeding 7,5 tonnes are one of the following:
 - a. 'zero-emission heavy-duty vehicles', as defined in Article 3, point (11), of Regulation (EU) 2019/1242;
 - b. where technologically and economically not feasible to comply with the criterion in point (i), 'low-emission heavy-duty vehicles' as defined in Article 3, point (12), of that Regulation.

2. Vehicles are not dedicated to the transport of fossil fuels.

Circular economy ^

Vehicles of category N1, N2 and N3 are both of the following:

- a. reusable or recyclable to a minimum of 85% by weight;
- b. reusable or recoverable to a minimum of 95% by weight⁽²⁷²⁾.

Measures are in place to manage waste both in the use phase (maintenance) and the end-of-life of the fleet, including through reuse and recycling of batteries and electronics (in particular critical raw materials therein), in accordance with the waste hierarchy.

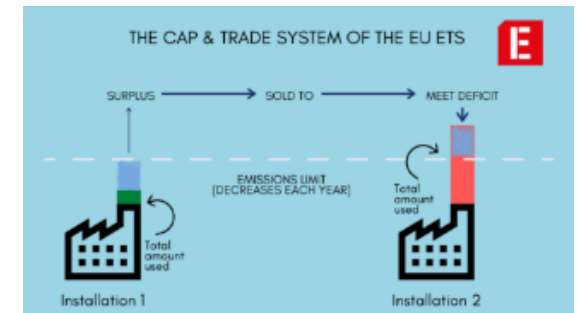
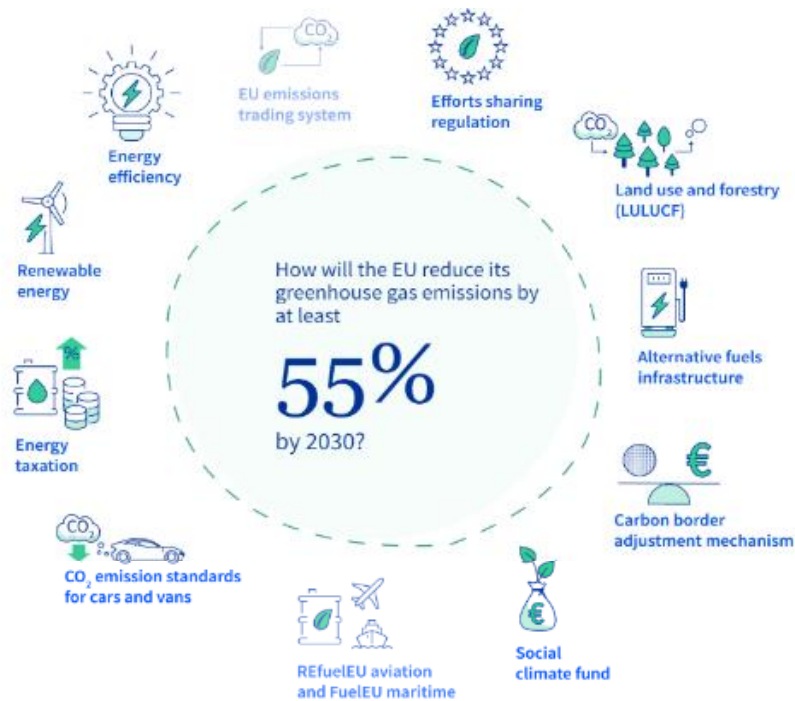
Pollution prevention ^

For road vehicles of categories M and N, tyres comply with external rolling noise requirements in the highest populated class and with Rolling Resistance Coefficient (influencing the vehicle energy efficiency) in the highest two populated classes as set out in Regulation (EU) 2020/740 and as can be verified from the European Product Registry for Energy Labelling (EPREL). Vehicles comply with the requirements of the most recent applicable stage of the Euro VI heavy duty emission type-approval⁽²⁷³⁾ set out in accordance with Regulation (EC) No 595/2009.

Vehicles comply with Regulation (EU) No 540/2014.

FIT FOR '55 IMPACTING THE SECTOR

- Creation of alternative fuel infrastructure
 - Electricity, hydrogen and methane
 - Road, air and maritime transport by 2030
 - Installation of 3 million public charging points by 2030
- Eurovignette & CO2 emission standards
 - Distance-based charges
 - User-pays** and **polluter-pays** system
 - Clean trucks would benefit from the revised legislation, which is expected to half their road tolls by May 2023
- EU ETS for maritime sector and road transport
 - Start of cap-and-trade system in 2026
 - Measuring and pricing of carbon emissions
 - National industry base year 2005
- Energy Taxation Directive (ETD)
 - Sets the rules for the taxation of energy products such as motor fuels or electricity
 - Align the taxation of energy products with EU energy and climate policies
 - End outdated tax exemptions and incentives for the use of fossil fuels
 - Tax fuels based on their energy content and environmental performance (not volume)
 - Incentivize the transition towards a higher uptake of **sustainable fuels** and to level the **playing field** between the different modes of transport.



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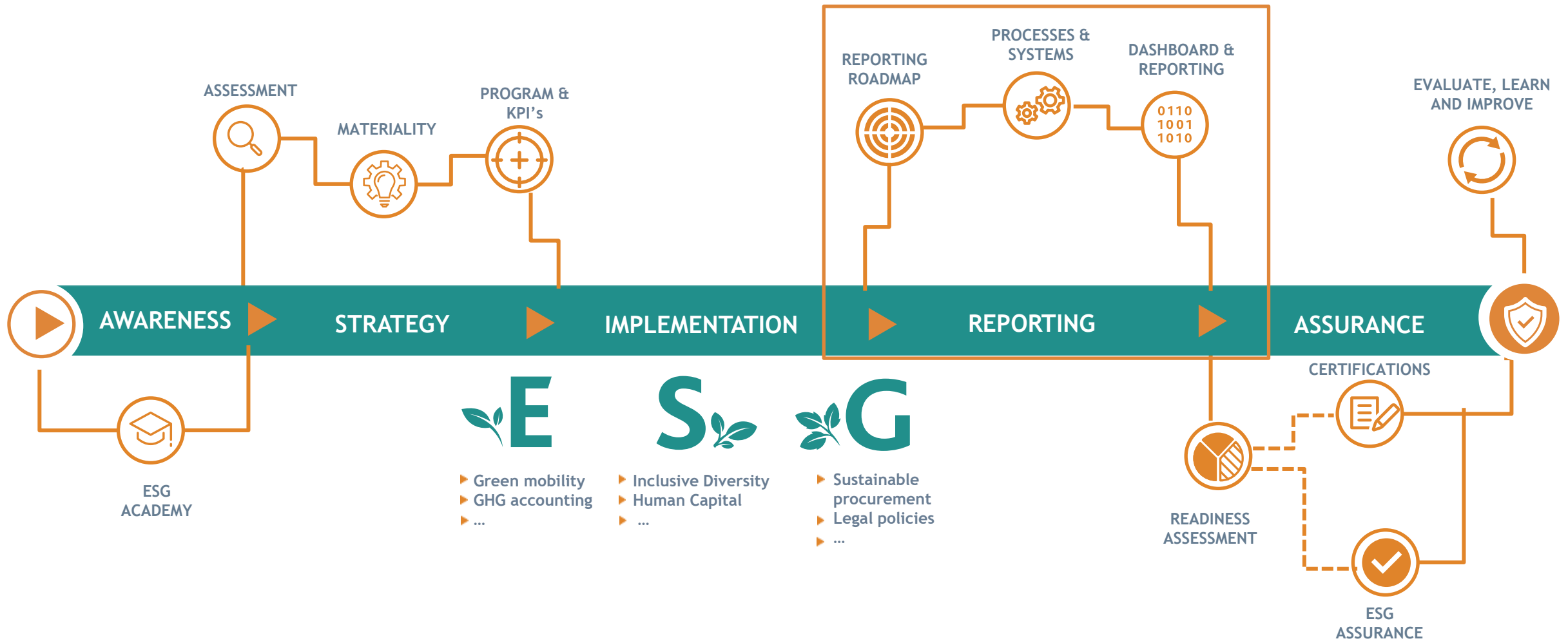


DE TRANSPORT-
SECTOR

15 min



THE ESG JOURNEY



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MATERIAL TOPICS



ENVIRONMENTAL

Climate change

- Direct emissions
- Mitigation
- Adaptation

Pollution

- Microplastics (Tires)
- NOx
- Oil



SOCIAL

Own employees

- Working conditions

Employees in value chain

- Working conditions

VRT NWS

Controle op vrachtwagenparking in Zeebrugge: 2 op de 3 chauffeurs niet in orde met wekelijkse rust

De politie heeft vandaag een grote controleactie gehouden op de vrachtwagenparking in de buurt van de haven van Zeebrugge. De agenten controleerden de documenten van de vrachtwagens, maar ook de truckchauffeurs zelf en hun leefomstandigheden. Twee op de drie chauffeurs houden zich niet aan de verplichte wekelijkse rusttijden.

radio2, Camille Jonckheere
ma 06 jun 2022 17:21



TRANSPORTonline®
ELKE DAG NIEUW(S)

HOME TRANSPORTNIEUWS OVERIG NIEUWS

Home > TRANSPORTNIEUWS > Wegvervoer > Deense politie controleert wee

Wegvervoer

Deense politie controleert weekendrust: bijna helft gecontroleerde chauffeurs in overtreding

dinsdag 9 april 2024 om 12:02 uur

TRANSPORT

Ook België kampt met stevig tekort aan truckers

Het tekort aan vrachtwagenchauffeurs neemt in België steeds grotere proporties aan, met naar schatting 5.000 vacatures. 'Britse toestanden zitten er nog niet in, maar het is niet uit te sluiten dat de bevoorrading moeilijk wordt op piekmomenten als de eindejaarsperiode.'

Stijn Decock
Vrijdag 15 oktober 2021 om 15:13 uur

NOS Nieuws • Maandag 23 november 2020, 08:51

'Helft vrachtwagenchauffeurs houdt te weinig rust'

Een op de twee vrachtwagenchauffeurs houdt zich niet aan de wettelijk voorgeschreven rij- en rusttijden. Zij rijden langer door dan mag, waardoor ze niet goed uitrusten.

23 november 2020 | 09:55 | Arjan Olsthoorn

Helft vrachtwagenchauffeurs overtreedt rij- en rusttijdenwet

De helft van de vrachtwagenchauffeurs overtreedt de rij- en rusttijdenwet. Zij rijden langer door dan wettelijk mag waardoor zij niet de benodigde rust krijgen. Dat blijkt uit een enquête van tv-programma **De Monitor** (KRO-NCRV) in samenwerking met FNV Transport en Logistiek, CNV Vakmensen en Stichting Chauffeursnieuws onder ruim 1800 vrachtwagenchauffeurs.

ENVIRONMENTAL

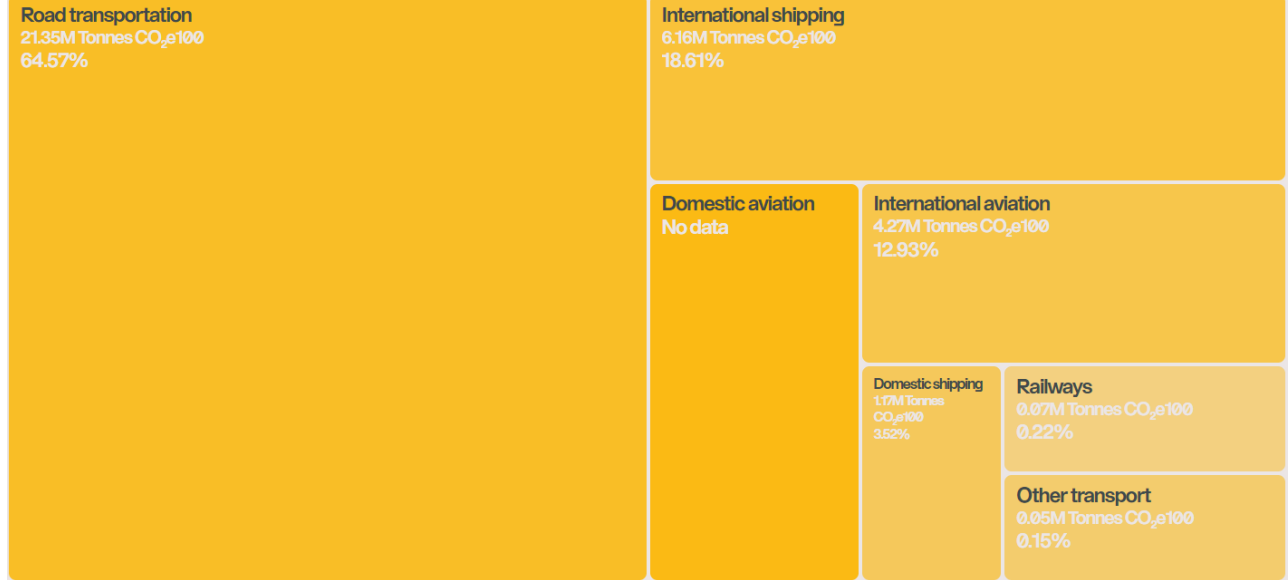
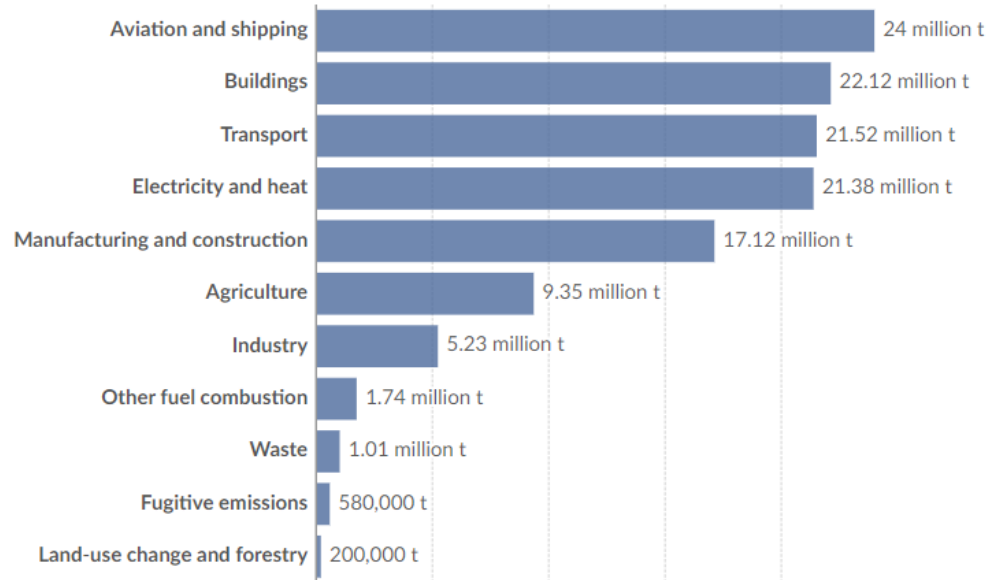
Greenhouse gas emissions by sector, Belgium, 2020

Our World in Data

Greenhouse gas emissions are measured in tonnes of carbon dioxide-equivalents over a 100-year timescale.

Table Chart

Change country or region



1990 2020

Data source: Climate Watch (2023) - [Learn more about this data](#)
OurWorldInData.org/co2-and-greenhouse-gas-emissions | CC BY

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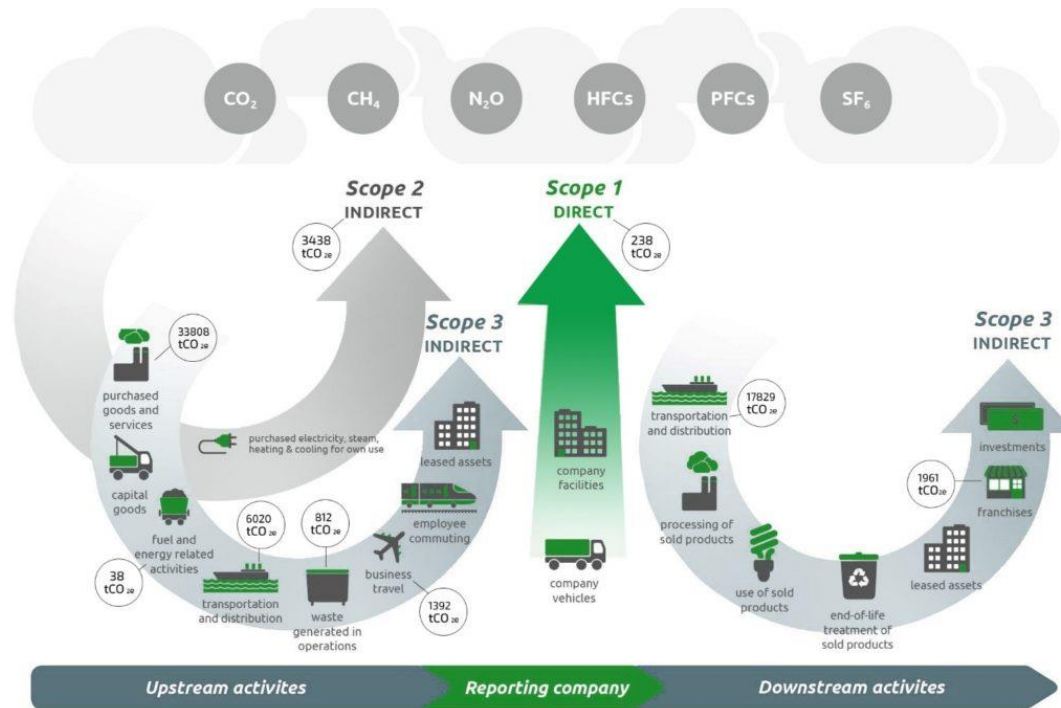
Source: [Country Inventory - Climate TRACE](#)



SCOPE 1 - 2 - 3 GREENHOUSE GAS



YOU!



Government



Business

ENVIRONMENTAL SOLUTIONS: CLIMATE CHANGE

LNG



HVO



ELECTRICITY



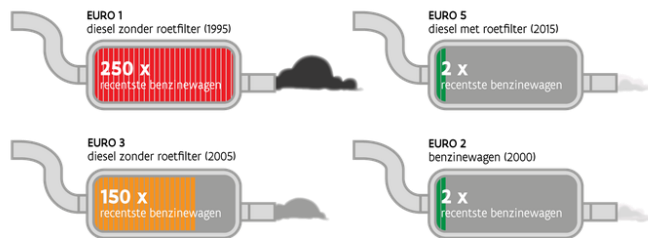
HYDROGEN



ENVIRONMENTAL SOLUTIONS: CLIMATE CHANGE

EURONORMING

Roetuitstoot van oudere diesel- of benzinevagens in vergelijking met de recentste benzinevagen (Euro 6d)



EMPTY KILOMETERS



MULTIMODALITY



DRIVING BEHAVIOUR



THE SECTORAL ISSUES

DISRUPTIVE CHANGE



Tesla Hasn't Conquered the World

Tesla's market share of total BEV unit sales in 2021, by region



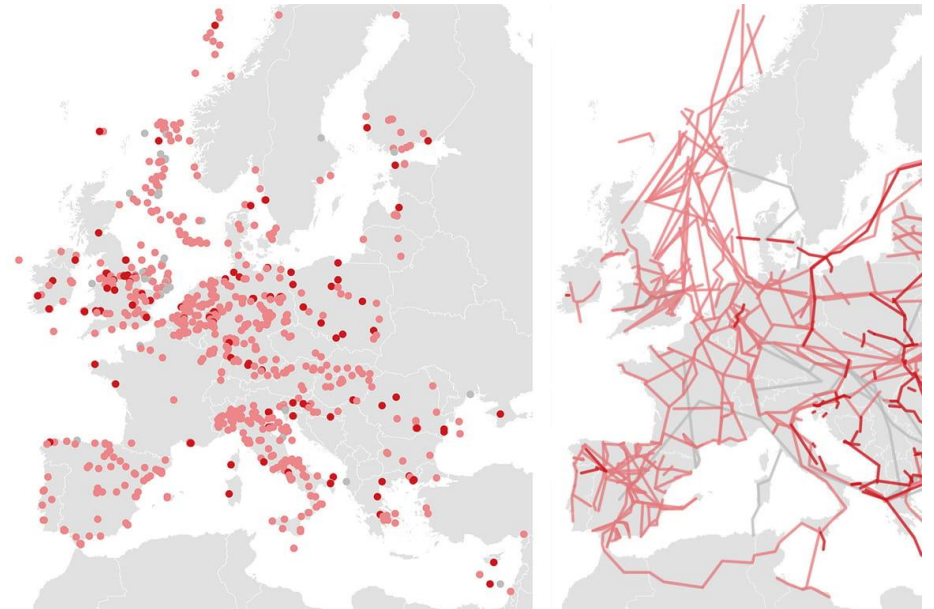
BEV = Battery Electric Vehicle
Insufficient data for Africa due to low BEV penetration
Source: Statista Mobility Market Outlook



statista

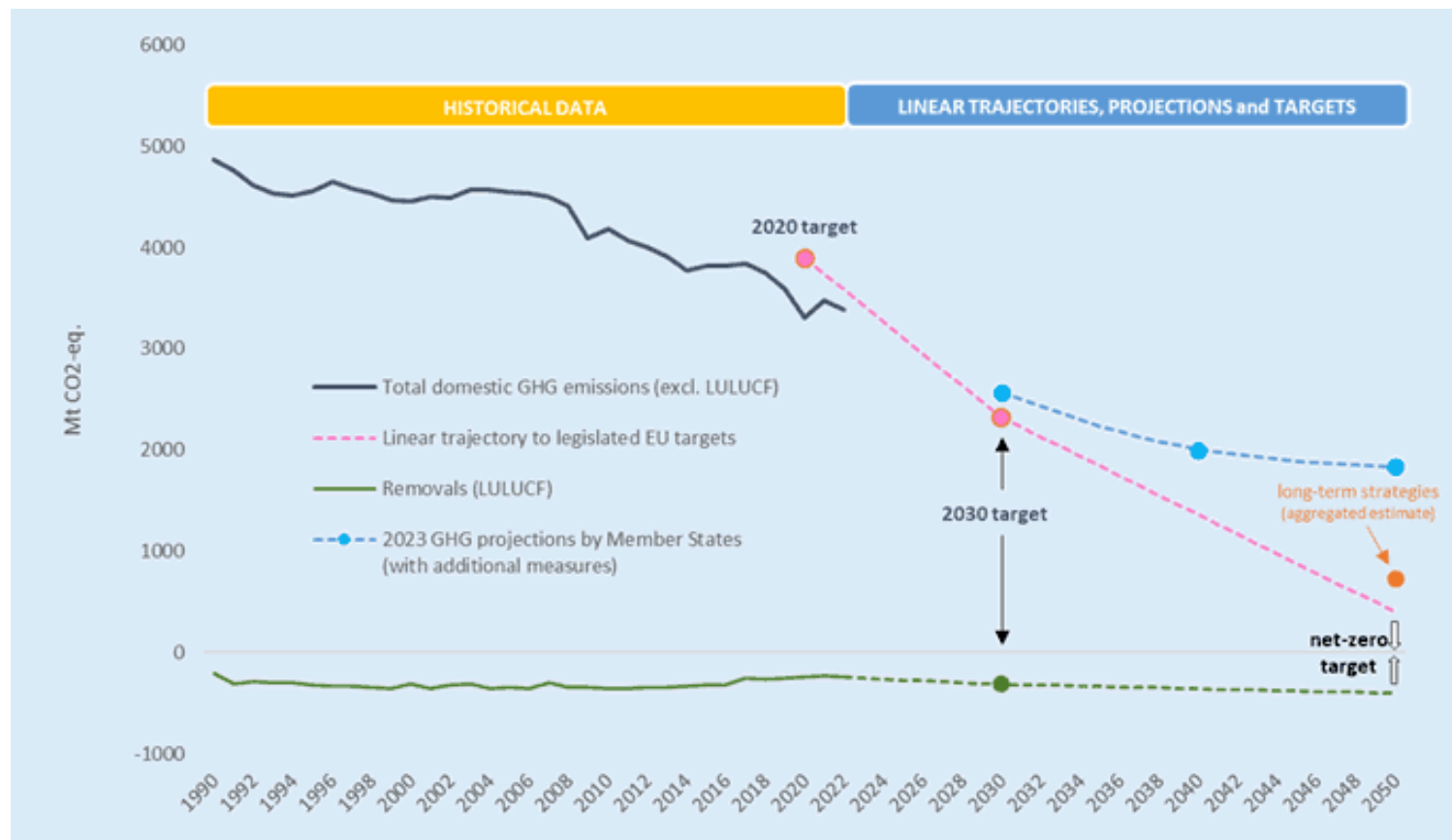


STRANDED ASSETS



Source: <https://www.politico.eu/article/stranded-assets-europe-mapped-energy-climate/>

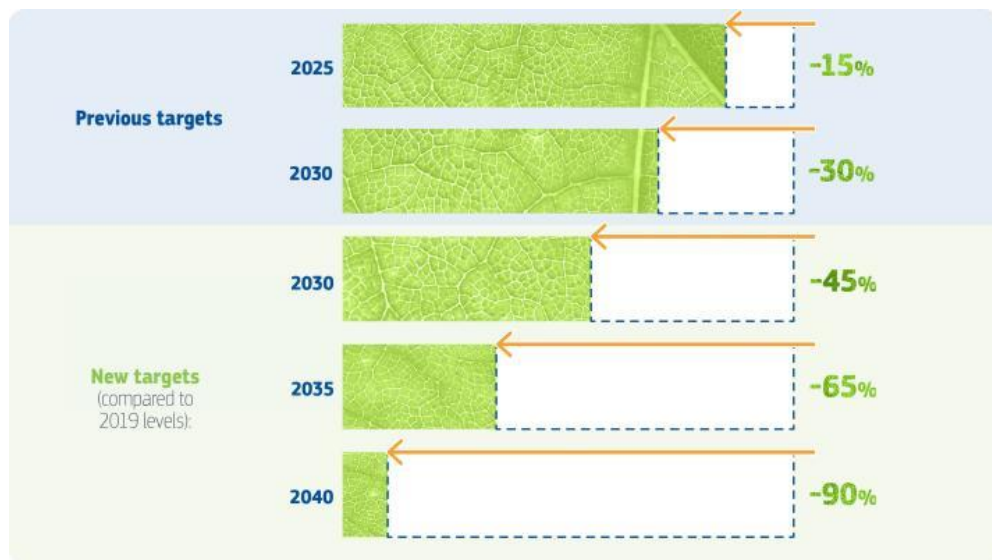
REDUCTION TARGETS EUROPEAN UNION



Source: https://climate.ec.europa.eu/eu-action/climate-strategies-targets/progress-made-cutting-emissions_en

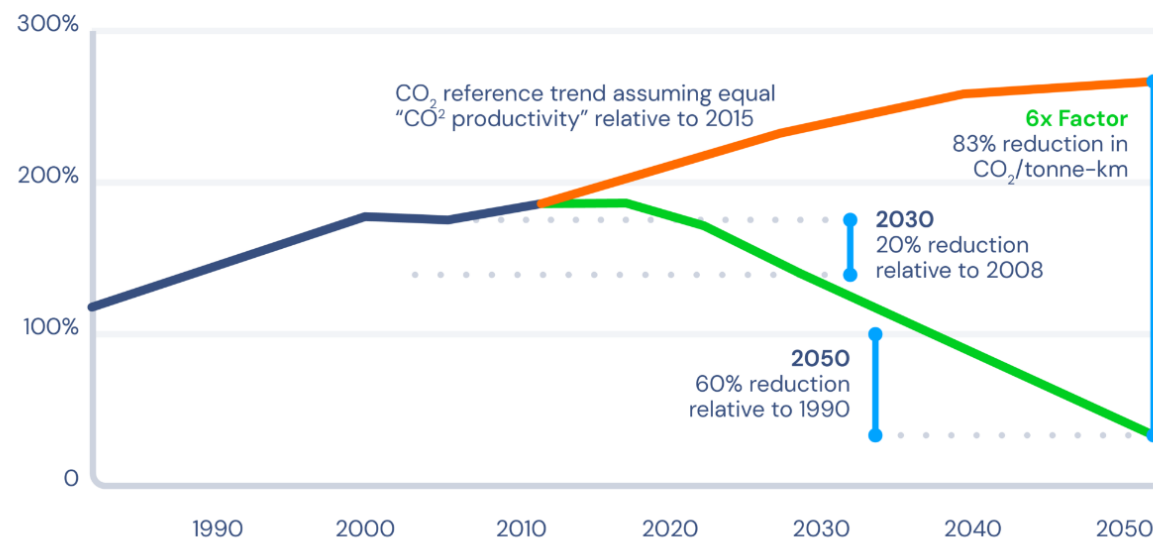
REDUCTION TARGETS TRANSPORTATION SECTOR

CO2 Targets Road Transportation Europe



Source: https://climate.ec.europa.eu/eu-action/transport/road-transport-reducing-co2-emissions-vehicles/reducing-co2-emissions-heavy-duty-vehicles_en

CO₂ Emissions Freight Transport in EU



Source: Smokers et al. (2017). Decarbonising Commercial Road Transport. Delft: TNO

OTHER HIDDEN ENVIRONMENTAL IMPACTS

MICROPLASTICS



POLLUTION



CIRCULARITY



NOx



OTHER HIDDEN ENVIRONMENTAL IMPACTS

MICROPLASTICS



POLLUTION



CIRCULARITY



NOx



NEW SOLUTIONS NEW PROBLEMS

LNG



ELECTRICITY



HVO



HYDROGEN

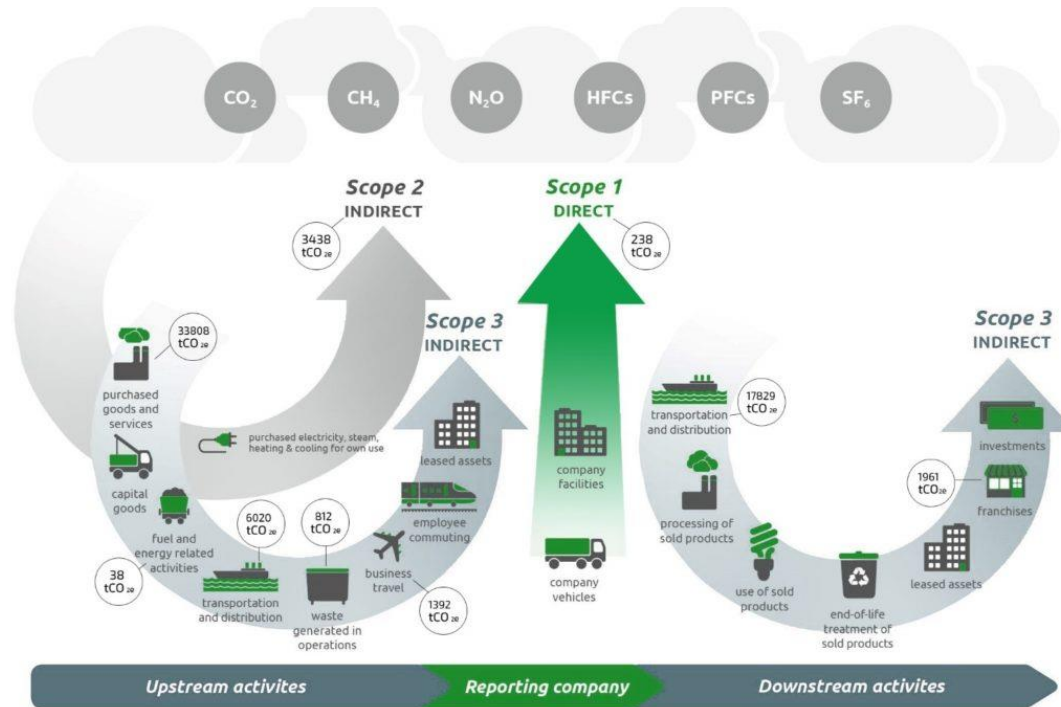




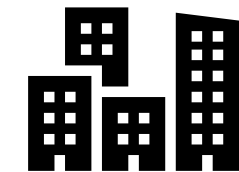
SCOPE 1 - 2 - 3 GREENHOUSE GAS



YOU!

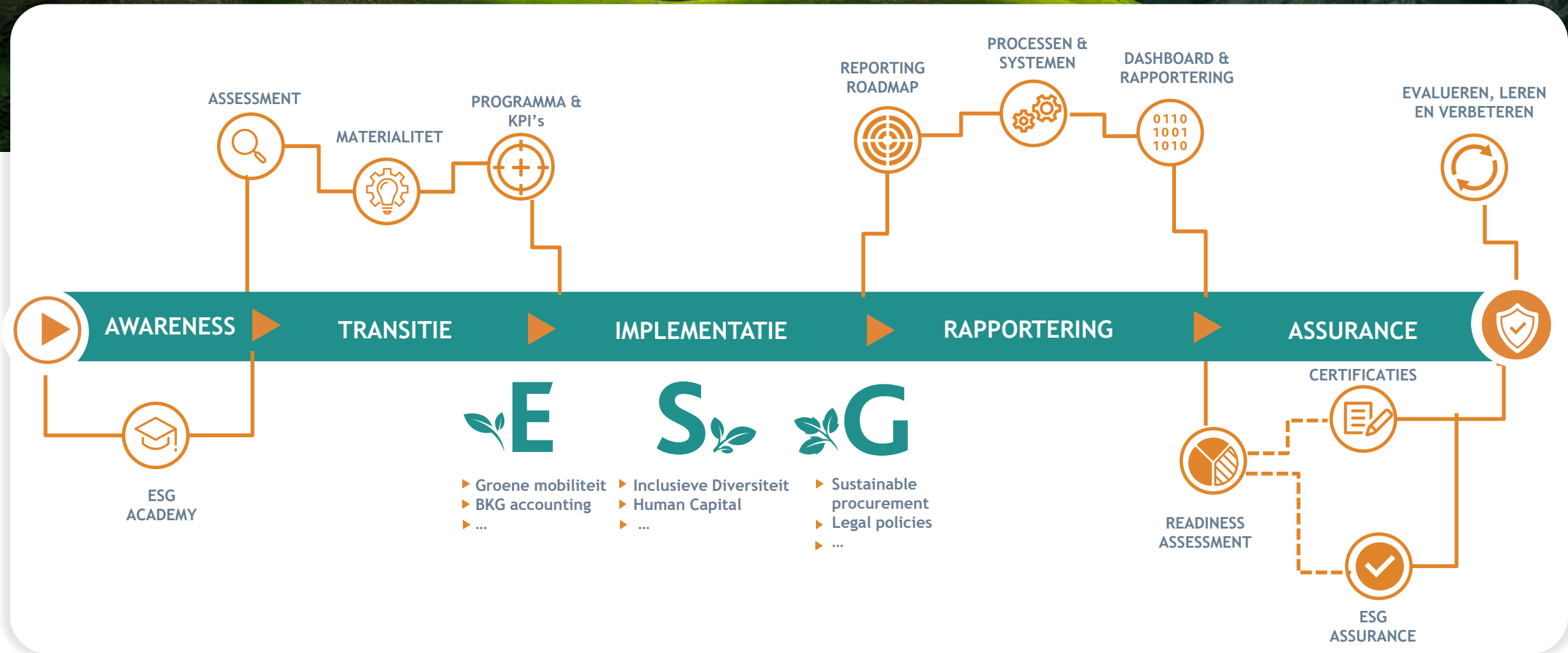


Government

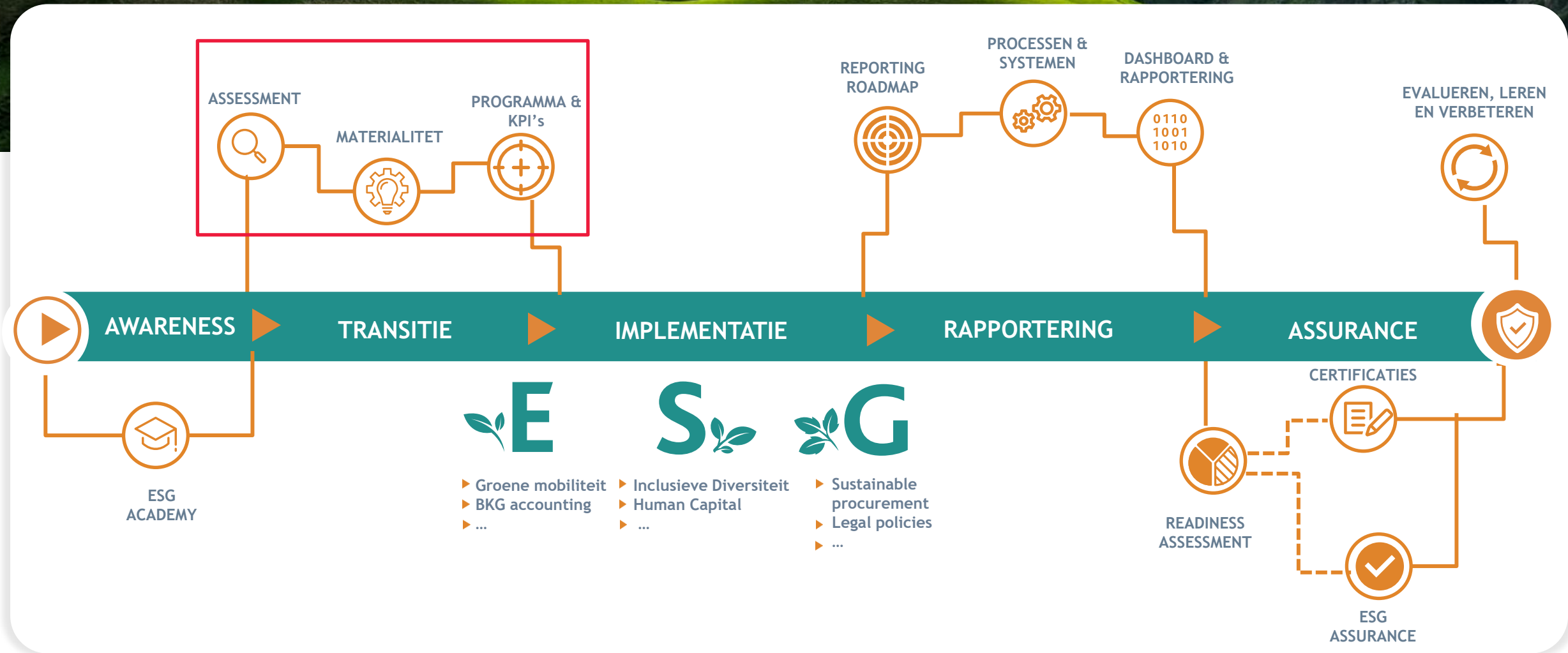


Business

DE DUURZAAMHEIDSREIS



DE DUURZAAMHEIDSREIS



DE ESG TRANSITIE





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Let's build a sustainable future... Together.





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 - Cabotage- en vergunningsproblematiek
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- Smokkelzaken / illegale migratie
- Incasso en handelszaken in transport & logistiek
- Arbeidsrecht en sociaal strafrecht in transport

Bereik

- Eigen kantoren:
 - België
 - Frankrijk
 - Luxemburg
 - Nederland
 - Frankrijk
 - Polen
 - Slovakije
 - Oostenrijk
 - Tsjechië
 - Hongarije
 - Roemenië
- Vaste correspondenten:
 - Duitsland
 - Verenigd Koninkrijk
 - Spanje
 - Italië
 - Bulgarije

Update Mobility Package

Wat was dat weer, het Mobility Package ?



Overlading in Wallonië

Nieuwe vaststellingen en nieuwe procedure

- Vaststellingen weigh in motion:
 - Volautomatische weeglussen in het wegdek:
 - Louvain-La-Neuve : A4-E411 kmp. 23 (in gebruik)
 - Courrière
 - Habaye-La-Neuve
 - Milmort
 - Saint-Ghislain
 - Geen afleiding / onderschepping voertuig
- Quasi-automatische procedure
 - Zie volgende slide

Boete-bedragen

Totaal-overladingen

- Tot 10%: 500 EUR
- 11% tot 15%: 1.000 EUR
- 16% tot 20%: 2.000 EUR
- 21% tot 30%: 3.000 EUR
- 31% tot 40%: 4.000 EUR
- Vanaf 41%: 5.000 EUR

Opgelet: aparte bedragen voor voertuigen tot 32 ton:

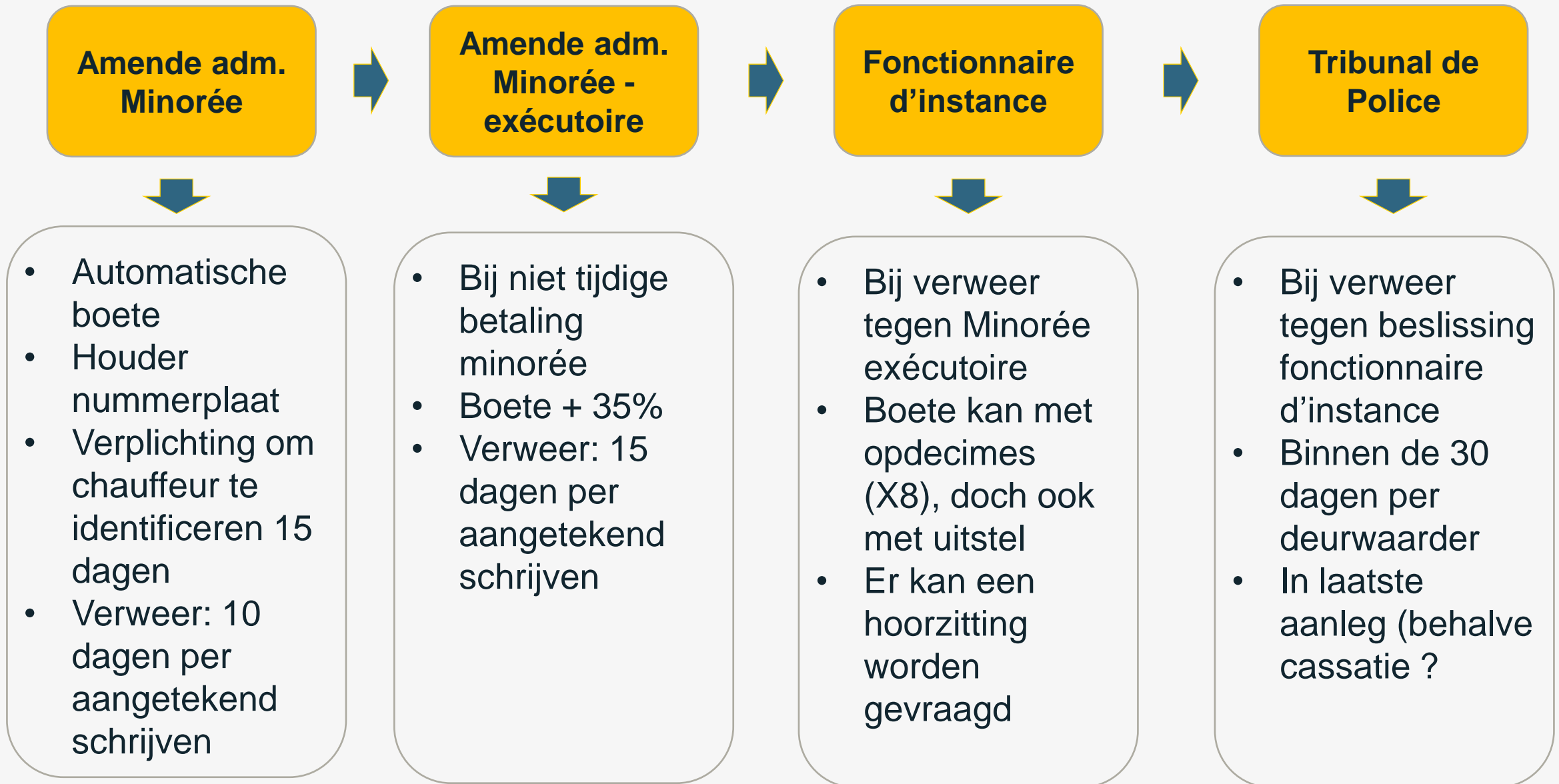
Tot 3,5 ton: 30% van de boete

Tot 12 ton: 50% van de boete

Tot 32 ton: 801% van de boete

Asoverladingen

- **Tot 5%: 250 EUR**
- 6% tot 10%: 500 EUR
- 11% tot 15%: 1.000 EUR
- 16% tot 20%: 1.500 EUR
- 21% tot 30%: 2.000 EUR
- 31% tot 40%: 2.500 EUR
- 41% tot 50%: 3.000 EUR
- 51% tot 60%: 3.500 EUR
- Vanaf 61%: 4.000 EUR



Wat leren de eerste procedures ?

- Op heden nog steeds in stadium van de minorée (herhaald per dossier)
 - Bij verweer / opgave naam chauffeur: eerste boete vervalt en nieuwe boete op naam chauffeur
 - Bij nieuw verweer op naam van de chauffeur:
 - Taalproblemen (voor niet-Franstaligen)
 - Problemen met verplichte vermeldingen in documenten van controle
 - Problemen met moreel / materieel element van de inbreuk (nu er controle ter plaatse)
 - Bij samenloop: gecumuleerd tot max dubbel zwaarste boete / in de praktijk nog niet vastgesteld
 - Meettolerantie: 10%

Dank U voor Uw aandacht

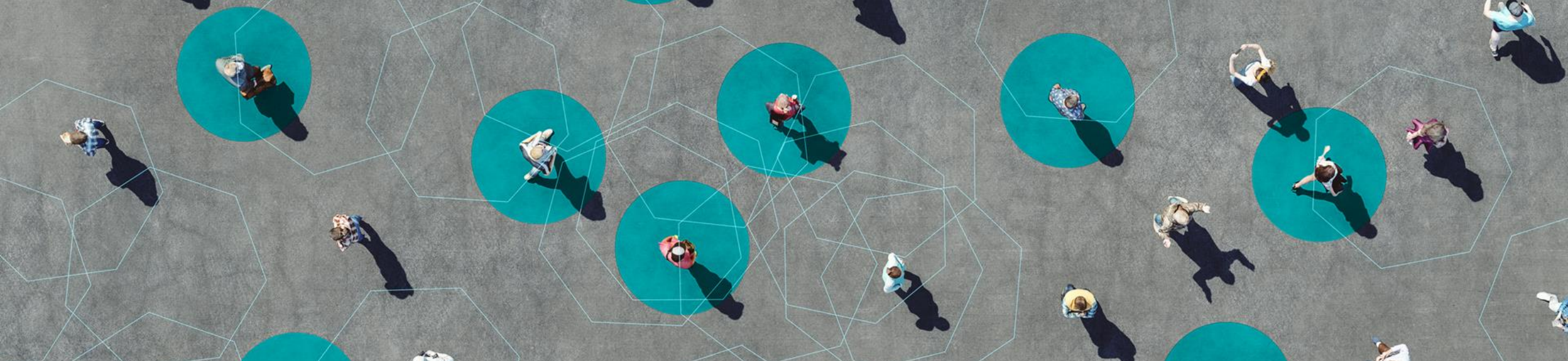


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LITIGATION FUNDING

Update on Deminor Action against the Truck Cartel and investigation into potential Tyre Cartel

UPTR – INFORMATIESESSIE – 24 APRIL 2024

Charles Demoulin - Chief Investment Officer

Short recap on the Truck Cartel

- Truck Cartel was sanctioned by the EU Commission on 19 July 2016
 - Participants in the Cartel: MAN, Volvo/Renault, Daimler, Iveco and DAF
 - They acknowledged their involvement in the Cartel and agreed to settle with the EU Commission
 - Fines amounted to €2.93 billion (largest fine ever against a cartel)
 - No fine against MAN as it had revealed the existence of the cartel
- Investigation continued against Scania who had refused to settle
- Scania was also fined by the EU Commission on 27 September 2017
 - Amount of the fine: €880.5 million
- Scania appealed against the decision
- Appeal was dismissed by the General Court on 2 February 2022 and by the European Court of Justice on 1 February 2024.
 - Decision against Scania is now final



Scope of the Truck Cartel

- Truck Cartel related to:
 - coordination of prices at "gross list" level for medium (between 6 and 16 tons) and heavy (over 16 tons) trucks
 - timing for the introduction of emission technologies for medium and heavy trucks to comply with the emissions standards (Euro III through to Euro VI)
 - passing on to customers of the costs for the emissions technologies required to comply with the emissions standards
- Cartel covered the entire European Economic Area
- Cartel lasted from 17 January 1997 until 18 January 2011



Consequences for transport companies

- The purpose and objective of a cartel are to maintain prices at an artificially high level (when a cartel is formed between suppliers)
 - A cartel can take many forms and be implemented in various ways: fixing or agreeing on (increases of) prices, exchanging information (about prices, sales, orders, etc.), restricting production, allocating markets or clients, etc.
- Because of the Truck Cartel, transport companies that purchased, leased or rented medium and heavy trucks paid a higher price than what they would have paid in the absence of the Cartel (= overcharge)
 - Economic experts retained in the Deminor Action have estimated the overcharge to be at least between 8% and 10% on average
 - Victims of a cartel can also claim interest in addition to actual loss and loss of profit. Since purchases of trucks occurred several years ago, interest can lead to a significant increase of the compensation amount
- Message from EU Commission in its press releases: ***“Any person or firm affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision constitutes binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without being reduced on account of the Commission fine.”***

The Deminor Action against the Truck Cartel

- In 2016, Deminor decided to offer transport companies (and other companies) the opportunity to claim a compensation for their losses against members of the Truck Cartel
 - Deminor worked in close collaboration with associations such as the UPTR
- Deminor finances the legal action for the benefit of its clients
 - Deminor pays the lawyers' fees, court fees, the fees of experts, etc.
 - Deminor's clients will only pay a remuneration in case of a success. Otherwise, they will not have to pay anything
- The first legal action for a group of Deminor clients was filed in the Netherlands (court of Amsterdam) in June 2019. The second legal action for another group of clients was filed before the same court in July 2021
 - Possibility to sue all members of the Truck Cartel before the court of Amsterdam (European rules on jurisdiction)



The Deminor Action against the Truck Cartel

- The first legal action filed by Deminor is included in the first wave of cases that are being heard together by the court of Amsterdam
 - We are currently aware of 4 different waves of claims (the second legal action filed by Deminor is part of wave 4)
 - The first wave is playing the role of “frontrunner” which has advantages
- Briefs have already been exchanged between plaintiffs and defendants
- The court has held hearings to discuss important matters
- The court of Amsterdam issued an interlocutory decision on 12 May 2021 rejecting the argument of the defendants according to whom no loss could have been suffered by any purchaser of trucks.
 - The defendants were trying to get an early dismissal of the claims
 - This is a first partial success for the transport companies



The Deminor Action against the Truck Cartel

- In another recent interlocutory decision (28 February 2024), the court of Amsterdam has requested the plaintiffs to:
 - communicate information and to produce documents establishing their purchases (including leasing and renting) of trucks
 - Deminor has already submitted a significant amount of information and documents in the court action. We may add more if necessary
 - respond to any criticism expressed by the members of Truck Cartel against the information/documents already communicated by the plaintiffs
- Importantly, the court also indicated that it is considering issuing one decision covering both the aspects of liability and damages
 - Initially, the court was supposed to issue a decision on liability only before starting another procedure on damages
 - The court's suggestion could lead to a simplification and acceleration of the legal action
 - The parties have been asked to react to the court's suggestion



The evolution of the legal landscape in Europe

- Rules on private claims for damages have been harmonized by a European Directive in 2014 which has been implemented in national laws
 - The 2014 Directive improves the situation of victims of infringements of competition law, including cartels, and facilitates claims for damages
 - Not all provisions mandated by the Directive are applicable to claims against the Truck Cartel
 - However, victims of this Cartel can already rely on several new mechanisms and rules that will make it easier to claim damages, including in the Deminor Action against the Truck Cartel
- Over the last years, several decisions of the European Court of Justice have clarified rules applicable to private claims for damages
 - Most decisions were favourable to victims claiming compensation



Developments in other court proceedings in Europe

- Claims for damages against the Truck Cartel having been filed in several EU Member States and in the UK
 - Collective actions but also individual claims
- There have already been decisions in a number of those court actions, including in the United Kingdom, Spain, Portugal, Germany, Italy, France and even Belgium
 - Decisions on damages related to individual claims
 - See decision of the Business Court of Gent (Kortrijk) of 29 April 2022 awarding damages
- Also media reports regarding settlements between plaintiffs and members of the Truck Cartel (for undisclosed amounts)



EU Commission investigation into tyre sector

- On 30 January 2024, the EU Commission communicated that it had carried out “*unannounced inspections at the premises of companies active in the tyres industry in several Member States. The Commission has concerns that the inspected companies may have violated EU antitrust rules that prohibit cartels and restrictive business practices (Article 101 of the Treaty on the Functioning of the European Union).*”
- Products concerned by the investigation are: “*new replacement tyres for passenger cars, vans, trucks and busses sold in the European Economic Area*”
- Media reports identified the following targets of the dawn raids: Bridgestone, Goodyear, Continental, Nokian, Pirelli and Michelin
- Inspections are a preliminary investigatory step. There is no confirmation yet of an infringement
- **Important to keep documents (invoices, contracts, etc.) related to purchases of tyres**





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LITIGATION FUNDING

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