



Position Paper No. 5

FOREIGN INVESTORS' COUNCIL IN LATVIA POSITION PAPER ON A CIRCULAR ECONOMY

08.09.2022



Executive summary

To achieve Latvia's green aims it is critical to implement and pay attention to all elements of a circular economy. It is the responsibility of the state to continue informing society and businesses about the key elements of a circular economy - the importance of waste management, recycling, re-using waste, ensuring lower carbon dioxide (hereinafter - CO₂) emissions and other ways to become greener. The only way we can move towards becoming a greener and more sustainable society is if at least the critical mass of individuals start thinking in the long-term and accepting more responsibility for their part in the green transition. A circular economy is not just the responsibility of a few larger companies, but also of the society and businesses as a whole.

FICIL has identified two critical areas that need improvements. The first is the waste management and packaging policy, the planning of which should be aligned with the practical implementation. No new changes should be retroactive and damage the investment that companies have made to effectively manage and use waste. Furthermore, FICIL welcomes

the implementation of the deposit system for PET, aluminium, and glass drinks packaging, but this is only the first step and other types of packaging need to be included. The second is enabling and making actionable all the measures related to CO₂, such as calculating, storing, and capturing. Foremost, the government needs to raise general awareness of the importance of the CO₂ topic. Latvia needs to take examples from countries such as the UK, who have created a tool for CO₂ calculation for private businesses¹, and the Netherlands, who have gone even further by offering a maturity test that provides guidance for businesses to create their own plan to reduce CO₂ emissions². Policymakers need to think proactively and ensure quality and future-oriented legislation in all areas of CO₂. This does not mean that a one size fits all approach should be taken; however, it is clear that to achieve the climate neutrality goals that have been set, all business will eventually be required to understand, calculate and have good knowledge of the emissions they produce.

1 Government conversion factors for company reporting of greenhouse (Gov.uk)

2 CO₂-prestatieladder.nl





Table of contents

Executive summary	02
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Recommendations	04
-----------------	----

Rationale for recommendations	05
-------------------------------	----

Recommendations

1. Improve the waste management and packaging policies

- Develop holistic policy of waste management, packaging, recycling and recovery with respect to all types of waste, especially, packaging taking into consideration neighbouring examples and providing fair market principles for private companies and where objectively necessary for municipalities (as commented by Competition Council and State Audit Office).
- Reassess and define specific and wide-ranging packaging minimum collection, and recycling targets, and ensure establishment of coherent monitoring process.
- Simplify definition for materials within the packaging portfolio, tax benefits, and amend the Natural Resource Tax Law and improve national transposition of Single-Use Plastic Directive to maximise industry incentives.

2. Enable effective solutions for calculating, capturing, storing and utilising of CO₂

- Provide the GHG Protocol standard text in Latvian and that policymakers should facilitate guidelines for its practical application.
- Create an online hub with reference data for use in emission calculations, together with a localised digital calculation tool, including an audit option (to increase accuracy) for information reporting and verification.
- Ensure that new legislation (including the draft Climate Law) allows for any local or foreign businesses to store and utilise CO₂ emissions using all the available and up-to-date technological solutions.



Rationale for recommendations

Improve the waste management and packaging policies.

The Government has adopted a number of strategies and plans to manage numerous challenges in the environmental field. Two documents worth noting due to their level of detail are the Cabinet of Ministers Order "About the plan of action for transition to a circular economy for 2020.-2027."³ which anticipates its main purpose to be developing a policy framework that would facilitate the state's transition to a circular economy, whilst facilitating implementation of the European Green Deal and achieving global sustainability goals, and the Cabinet Order "About the state's waste management plan for 2021.-2028."⁴ which aims to implement a waste management hierarchy based on its priorities with involvement of all social partners that are part of the waste lifecycle. Unfortunately, within the first two years of implementing the aforementioned, the responsible institutions have not moved closer to achieving those goals, mainly due to the previous strategic errors and inefficiencies in policymaking and coordination. As previously commendably outlined by the State Audit Office with its newest revision of the bio-waste management system.

Looking back at the previous planning period and the two initial years of this planning period, FICIL continues to see a lack of urgency in tackling the mounting obligations and requirements, as well as a clear practical strategy by using gradual planning in terms of the exact changes that businesses may expect in the coming years (planning period) and how those changes might impact on their daily operations. On the other hand, FICIL observes that policymakers continue to develop and publish important changes in regulations with virtually no, or very short, transition periods, all of which adds unnecessary costs and administrative burdens and disrupts the internal long-term plans of businesses. At the same time, the actions of responsible authorities are not entirely in line with the said plans. FICIL has observed several instances where the Ministry of Environment Protection and Regional Development acts against these plans in a way

that hinders the interests of society. For example, although the plans had different target goals, the European Commission issued an Early Warning Report⁵ in 2016 for Latvia being at risk of missing the 2020 preparation for re-use/recycling targets on municipal waste. It concluded that several key targets had not been met, the recycling rate was low, landfills were used far too often and there was a lack of a centralised approach to waste management. Furthermore, although new plans were adopted in 2021, the State Audit office in 2022 reiterated that the same issues persist and in practice are not being solved. Therefore, when developing a new policy, FICIL expects close alignment with the broader strategic goals and plans already approved and in place. Furthermore, **FICIL encourages the government to develop future waste management and packaging policies by considering policies adopted in neighbouring countries to avoid any stark differences between neighbouring jurisdictions.**

- **FICIL reiterates that there is a need to ensure a reasonable balance between the interests of society and all those involved in the waste management processes.**

Whilst developing policies and regulations within the waste management sector, it is of paramount importance to pay attention to the balance between the interests of society and everybody else involved in waste management. FICIL believes that during the previous and current planning period Ministry of Environment Protection and Regional Development did not pay enough attention to this balance in some areas of waste management, especially in those areas where the private sector can offer meaningful help to the state in achieving the EU's waste management goals. During the previous planning period Ministry of Environment Protection and Regional Development's led changes in the Waste Management Law took away from waste producers the right to choose both how and who would process their waste. Businesses were forced to become part of the household waste management system by *de facto* equating company to household

3 <https://likumi.lv/ta/id/317168-par-ricibas-planu-parejai-uz-aprites-ekonomiku-20202027-gadam>

4 <https://likumi.lv/ta/id/320476-par-atkritumu-apsaimniekosanas-valsts-planu-20212028-gadam>

5 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018SC0420>

with disregard to the obvious differences that persist in the composition, type, and volume of waste that a company produces. Such a move was criticised, not only by the vast majority of waste producers and respective associations, but also by the Competition Council, however, with no avail. As a result, the implementation of this policy was never fully achieved, and this resulted in renewed discussions during this planning period. FICIL is still concerned about the irrational pressure on businesses to take on additional costs to sustain ineffective waste management systems at municipal level, with the main caveat being the inability to align private sector needs and the abilities of waste management companies due to evident practical differences between households and companies who both produce waste for very different reasons.

FICIL sees a clear lack of scrutiny for the development of a detailed policy that would suit all waste management companies and not just the household waste producers. Within this process, Ministry of Environment Protection and Regional Development has lost sight of the balance between the different interests and rights arising from Article 105 of the Constitution of Republic of Latvia, by losing the balance between creating a benefit to society and heavy restrictions on waste producers, especially when waste producers can ensure high levels of waste processing that exceed EU requirements. Ministry of Environment Protection and Regional Development has continuously ignored a lot of practical issues that persist with the existing regulations, instead offering to meet but failing to provide reasoning for their decisions.


The existing regulations are moving away from the principle - "polluter pays" in its broader sense. The "polluter pays" is applicable to everyone, starting from the producer to the end customer

who throws waste into the bin, that covers the costs for waste management. However, a balance between the costs requires a fair assessment of each party's involvement and should motivate any polluter to reduce the amounts of waste. If the waste management system organised by the state was to transfer the entire weight of the costs to somebody else in the chain, there is no motivation for other polluters to reduce waste, which is the state's main priority. In this particular case, Ministry of Environment Protection and Regional Development has placed costs for two separate streams of waste - expensive management of household waste together with profitable packaging waste produced by companies, which undermines the principle - "polluter pays". Therefore, FICIL suggests amending the errors made in the previous planning period, instead of forcing companies to use dispute resolution methods which should not be part of any policy making, especially in the waste management area that has mounting obligations towards the planet. If left unaddressed, any future policy implementation will face challenges because of the need for constant policy amendments and obstacles.

- **FICIL reminds that the market should remain free and open based on competition and innovation.**

In the last decade, the waste management sector has become more restrictive in terms of open competition, regulation and in different alternatives that are available to the waste producers. Some of it is necessary, like strict management of hazardous waste and implementation of the deposit system. However, the overlying limitation of competition can seriously hinder innovation and efficient management, as well as future investment.



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- **FICIL urges the government to develop a policy of waste management, recycling, and recovery with respect to all types of waste, including packaging. This includes seeking and taking into account the advice given by competent authorities in the specific field, for example, the Competition Council and State Audit Office.**

Specifically, policymakers should not drive out companies that offer waste processing services from the waste recycling market and prevent them from becoming part of municipal waste management systems. These companies often offer highly efficient services that benefit not only the waste producers, but also the state and society when it comes to reaching EU waste recycling goals. Pushing companies out of the Latvian waste management market hurts society, as they offer innovation and services that would not otherwise be developed in a market that is only split between a few waste management companies through public procurements. Scaling of household waste management is necessary but should not be achieved by hindering innovation and efficiency. To this point, FICIL urges the responsible authorities to seek and act upon advice given by competent authorities in specific fields, i.e., Competition Council and State Audit Office.

- **FICIL believes it is important to provide a unified collection infrastructure for all types of packaging with a clear breakdown by specific containers that are the same for all waste management operators in the long-term.**

As an example, a separate collection of drinks packaging will significantly increase the volume of material available for recycling, which in turn will create a more predictable and higher quality of resources for recyclers. It is important to gather the lessons learned from implementing and planning the deposit system and build on more effective recycling of other materials. Infrastructure should be independent of the location or the waste management. FICIL would also recommend that the waste collecting containers and systems and the recycling process afterwards (both collection and re-generation) are the same in order to make it easier for consumers.


The circular economy concept has become more important in policymaking, being implemented in the production, consumption, and waste management sectors. The concept aims to close loops in industrial systems, minimising waste, raw material use, and energy input, focusing on

the regeneration of materials. FICIL believes that policymakers should focus on implementing the circular economy principles when developing a food packaging policy. The idea to encourage reduction, reuse and recycling should be considered when setting the collection targets, as well as applying the tax framework, meanwhile educating the stakeholders and consumers about the circularity. The current category definitions of packaging in the policy documents are too broad and the goals and applied taxation should be applied for each type of packaging. Raising awareness and implementing a circular economy is also among the key priorities of the EU in order to reach the sustainability goals, thus it is also of importance for national policymakers.

- **FICIL suggests that policymakers define specific and wide packaging and the minimum collection and recycling targets and implement these in future action plans.**

At the moment, the Cabinet of Ministers regulation has set specific amounts of recycling targets, that are divided into five material types - glass, wood, paper, metal and wood products. In the current market conditions, this division is not specific enough. The *State's waste management plan for 2021.-2028* outlines more details but is only a political planning document, yet to be implemented in practice. FICIL believes Latvia should follow the direction set by the EU and keep moving towards more nuanced packaging segregation, with each type of packaging having specific collecting and recycling targets, just as it was done with PET, aluminium, and glass drinks packaging.

FICIL firmly believes that relevant policies should be carried out considering the existing costs of producer responsibility schemes and connected to the industry's contribution via financing and public awareness initiatives. It has been proven that fiscal measures do not encourage businesses to innovate, but on the contrary, negatively affect competitiveness and create additional financial burdens. The Government has currently been focusing on levying packaging taxes in addition to industry-financed and managed collection and recycling programs, which have only led to market distortions. The reactive Extended Producers Responsibility (hereinafter - EPR) policy for packaging has proven to be a much more effective tool for increasing recycling rates, thus it should be applied to all consumer packaging types.

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- **FICIL proposes simplification of the materials within the packaging portfolio, tax benefits, amendments to the Natural Resource Tax Law and Single-Use Plastic Directive to maximise industry incentives. Natural resource tax should only be applied in case of non-compliance with the EPR scheme, and not in addition to the EPR fee.**

Moreover, conditions should be created that ensure fair competition and economies of scale between different packaging solutions. Different types of packaging should have an equivalent element of burden to avoid distortions and fragmentation within the single EU market. Another pressing issue in the scope of the packaging policy is the unveiling of the plastic tax that would now be applied on the drinks carton packaging, which contains far less plastic than other composite materials. The Government is not using a holistic approach - does not allow the industry to ensure collection targets and is taking the responsibility for informing the society while avoiding the tax, but on the contrary making it inescapable. Ministry of Environment Protection and Regional Development has begun to redesign the Natural Resource Tax Law; however, the process has been postponed, thus it is of utmost importance to continue this process, and the changes should be in line with the current market conditions.

Enable effective solutions for calculating, capturing, storing and utilising CO₂.

Calculating CO₂ emissions.

In the global business environment, there is a growing demand for information disclosure about a company's environmental, social and corporate governance (hereinafter - ESG) performance. Being able to refer to company or product emissions enables companies to find more export opportunities and contribute to the overall green aims. It is important for business that emission calculations are standardised and comparable.

In the upcoming years, the EU legislation will require reporting of company non-financial indicators, for example, with the reporting requirements of the EU's Corporate Sustainability Reporting Directive (hereinafter - CSRD Regulation). In time, reporting of a company's CO₂ emissions will be a standardised requirement. However, accurately calculating and

establishing business emissions is time consuming. Therefore, companies must start now, to be prepared for future legislative changes. Internationally, the most recognised and used standards in the field of non-financial performance management and reporting of companies are TCFD, GRI, SBTi which today refer to Greenhouse Gas Protocol⁶ (hereinafter - GHG Protocol) standard and metrics (Scope 1, 2, 3). For businesses in Latvia, emissions calculation is most often practiced as fragmented calculations for different reasons, such as for payment of natural resource tax, obtaining permits for any polluting activities, participation in ETS system or similar. As a result, measuring emissions is relevant only for a fraction of all companies, and covers only part of the business value cycle emissions. Not only that, but all the calculations across companies also vary in methodology and are not comparable.

The GHG Protocol is the most widely used international accounting tool for managing greenhouse gases. The GHG Protocol is a tool that assists businesses which are seeking to better understand the climate-related emissions and develop a way towards responsible and sustainable future operations. However, applying the GHG protocol and calculating emissions is not a simple task. Consulting services that can assist businesses in the area of calculating greenhouse gases are not yet widespread and affordable, thus many small and medium-sized businesses will have to deal with the CO₂ emissions calculation task on their own. FICIL suggests that it is necessary for the government to provide the tools and knowledge on CO₂ emission calculations. Any support for businesses that would result in greater emission measuring practices will be key for future business competitiveness.

FICIL believes that the following actions from policy-makers would contribute to widespread and more accurate business CO₂ calculations:

- Raising awareness about business CO₂ emissions and their responsibility for emissions throughout the company value chain.
- Provide the GHG Protocol standard text in Latvian and policymakers should facilitate the guidelines for its practical application being developed (explanatory material on the choice of data and emission factors in accordance with the various calculation approaches provided in the standard).

⁶ <https://ghgprotocol.org/about-us>

- Facilitate creation of an online hub with reference data for use in emission calculations (emission factors / conversion factors, in adjusted units of measurements, for example, as has been done by the United Kingdom⁷), together with a localised digital calculation tool, including an audit option (to increase accuracy) for information reporting and verification.

Capturing, storing and utilising CO₂

Development of carbon capture, storage and utilisation infrastructure is an essential part of the EU Green Deal strategy. Within the framework of the EU Green Deal, it will be essential to reduce the CO₂ emissions in order to maintain the competitiveness of the local energy-intensive businesses, which are also large CO₂ emitters.

According to Section 8.2 (Storage of Carbon Dioxide) of the Law on Pollution, the storage of CO₂ in geological formations or water columns is prohibited⁸. However, this point does not correspond to the current state of technological development, the EU Green Deal and Latvia's green aims. Latvia has a suitable geological structure for the storage of various gases. CO₂ storage can be economically justified, safely managed and in line with the economic interests of the state. Besides, Latvia has accumulated a unique knowledge about the maintenance of a gas infrastructure. Unlike natural gases, CO₂ is not a flammable or explosive gas and has ten times lower greenhouse effect potential, so its storage is neither more dangerous nor more harmful than any natural gas storage.

The current version of the draft Climate Law developed by Ministry of Environment Protection and Regional Development does not contain the CO₂ storage prohibition; however, the draft law has not yet been adopted. FICIL believes it is of the utmost importance that the Climate Law be enacted in a form that legally enables the carbon capture, storage, and utilisation value chain. Afterwards, a detailed legal regulation should be created for the relevant field, including the implementation of the Directive 2009/31/EC of the European Parliament and of the European Council of 23 April 2009 on the geological storage of CO₂ ⁹.

In an ideal model, the management of CO₂ emissions would take place without the need for any storage, with the entire emitted amount being captured and immediately processed into useful compounds,

such as synthetic fuels or other hydrocarbons, for example, by combining the captured CO₂ with hydrogen that is produced within the energy sector in the electrolysis process. However, the amount of CO₂ emissions from large local emitters is significant and the possible uses of CO₂ in the economy are not yet enough to process all the captured CO₂ in direct mode, without intermediate storage. Therefore, a functional and efficient CO₂ management system requires large-volume geological storage.

FICIL understands that there is still a need to carry out all the technological research. FICIL believes that both the large emitters and state administrative authorities should maintain a certain flexibility regarding the technologies that will be successfully developed, also with regard to the most suitable CO₂ management system for Latvia. Due to the scale, it is evident that only local CO₂ storage will not be economically justified, and emitters will have to export CO₂ to foreign storage sites, but currently all possible scenarios should be evaluated, including geological CO₂ storage options. In addition, as previously mentioned, the current draft Climate Law does not prohibit CO₂ storage that is generated in Latvia. However, FICIL recommends evaluating the opportunity to allow any Latvia related or foreign companies that have produced CO₂ abroad to store it in Latvia (at least the CO₂ generated in the neighbouring Baltic States). FICIL does not suggest that Latvia becomes a CO₂ storage country, but also clearly understands that developing an efficient CO₂ storing infrastructure requires significant investment, therefore, to cover expenses related to infrastructure development and make such solution economically viable, investment could be attracted from businesses that operate in various countries, for example in all the Baltic States.

To bring the EU Green Deal's aims to life it is crucial to involve the industry, therefore, FICIL invites decision-makers and Ministry of Environment Protection and Regional Development to involve experts from the relevant industries in the development of new legislative initiatives. Even though the formation of a working group was planned for the study of CO₂ capture, storage and utilisation issues and solutions, consisting of representatives of the public sector, academia, and relevant industries, so far, FICIL has not been informed about the actual creation of such working group. FICIL reiterates the need to create one and suggests establishing it without further delay.

⁷ <https://www.gov.uk/government/collections/government-conversion-factors-for-company-reporting>

⁸ <https://likumi.lv/ta/en/en/id/6075-on-pollution>

⁹ <https://eur-lex.europa.eu/legal-content/LV/TXT/PDF/?uri=CELEX:32009L0031&from=EN>



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