

To: Environment Ministers of EU Member States

Cc: Commissioners for Environment, Climate and Health and Consumer policy and the Chair of the European Parliament Environment Committee

Concerning: Input to the EU Environment Council Meeting, Brussels, 4 March 2016

Brussels, 15 February 2016

Dear Minister,

On behalf of the European Environmental Bureau, I am writing to share with you our views on some of the issues on the agenda of the forthcoming EU Environment Council. I invite you to take our concerns into account during final official level preparations as well as at the meeting itself.

1. COP-21 Paris Follow up

The Paris Deal is truly historic but whether it will be sufficient to stop climate change depends entirely on whether the commitments of its parties will be significantly increased. The EU now has a responsibility to maintain the leadership role it played during the COP by starting a debate on how to revise its climate and energy ambition upwards to at least a 60% greenhouse gas (GHG) reduction target, a 40% energy savings target and a 45% renewable energy target by 2030.

The EEB therefore calls on the Environment Council to:

- *Acknowledge the need to reassess and strengthen the existing policies to bring them into line with the new commitment to pursue efforts to limit temperature rise to 1.5°C above pre-industrial levels;*
- *Insist that the European Commission will initiate this process covering all relevant instruments, with a view to revising the ambition of the EU's climate and energy objectives upwards to at least a 60% GHG reduction target, a 40% energy savings target and a 45% renewable energy target by 2030, supported by a solid governance system;*
- *Strongly reject any weakening of the EU's commitments by for example allowing flexibility between the Effort Sharing Decision (ESD) and the Land Use, Land Use Change and Forestry (LULUCF) sector.*

See Annex 1 for more detailed comments.

2. EU Action Plan for the Circular Economy

The EEB welcomes the publication of the new circular economy proposal in particular for its role in keeping circular economy high on the agenda of the Commission, even if the delay resulting from the withdrawal of the earlier package was not fully justified. It allows the debate on the revision of EU waste legislation to continue, with the most urgent priority being to restore the lost ambition of the recycling targets to 70%. For the package to deliver

on the product side of the circle, it is essential now that this is followed up by the release of a series of measures by the European Commission and that these are in turn supported by the Member States and Parliament.

The EEB therefore calls on the Environment Council to:

- *Urge the Commission to move forward in preparing proposals in a range of areas including promoting reparability, durability and improved transparency and cooperation throughout the value chain;*
- *In particular call for the swift release of an ambitious Ecodesign Working Plan grasping the immediate potential of circular economy aspects at the design stage, notably of electronics and information and communications technology (ICT);*
- *Call for development of a headline target and indicators on resource efficiency, with a view to guiding policy options towards an absolute reduction of resource consumption in Europe.*

See Annex 2 for more detailed comments.

3. Sustainable Development Goals Follow up

The adoption of the Sustainable Development Goals is a unique opportunity to set the EU on a reform path that will allow Europe to solve the multiple crises it is facing in a holistic and effective manner. This opportunity however will only be realised if it will lead to the adoption of a truly ambitious and deep reform agenda which allows Europe to build on its strengths: the rule of law, knowledge, skills and innovation, strong institutions and high levels of social and environmental protection. This should take the form of a comprehensive new EU Sustainable Development Strategy with a 2030 horizon.

The EEB therefore calls on the Environment Council to:

- *Support the development of an EU Strategy for Sustainable Development, including an implementation plan covering all 17 goals and 169 targets, using existing EU sectoral strategies, elevating ambitions where necessary and starting new actions to address the gaps;*
- *Continue the good practice of organising ‘Jumbo’ council meetings, not only on external policies but also regarding internal policies to improve coherence;*
- *Ensure that the necessary governance structures are created at both EU and national level that will ensure effective and inclusive participation of civil society.*

See Annex 3 for more detailed comments.

4. Endocrine Disruptors Criteria

The EEB is deeply concerned by the Commission’s apparent disregard for the rule of law as displayed by its insistence on continuing with an impact assessment in relation to the development of criteria for defining Endocrine Disrupting Chemicals (EDCs) despite a General Court ruling in December 2015 that the delay in developing the criteria is illegal and that no impact assessment is required. Both the Court ruling and the EU Treaty are crystal clear that the Commission now needs to take the necessary measures to comply with the law which means adopting the scientific criteria as soon as possible. We recommend the Commission to use its own draft recommendation from June 2013.

The EEB therefore calls on the Environment Council to:

- *Condemn the Commission for the delay in presenting criteria on EDCs by December 2013, as required by the EU law on biocides;*
- *Insist that the Commission ceases the impact assessment and immediately adopts the scientific criteria in accordance with the Commission draft recommendation of June 2013;*
- *Request the Commission to carry out a review of the Commission's use of impact assessments and the extent to which this is causing unnecessary delays in regulatory action and feed this into a wider overhaul of the Commission's 'Better Regulation' agenda.*

See Annex 4 for more detailed comments.

5. Minamata Package

The EEB welcomes the release of the package to implement the Minamata Convention on Mercury but is concerned by its minimalist approach in implementing the Convention, leading to yet another area where the EU is rapidly losing its global leadership role.

The EEB therefore calls on the Environment Council to:

- *Proceed rapidly with the ratification of the Minamata Convention at EU and Member State level;*
- *Strengthen the proposed regulation on mercury by tightening up requirements on the export ban on mercury-added products, on the phase out of mercury use in dentistry and industrial processes, and with respect to reporting, among others.*

See Annex 5 for more detailed comments.

Thank you in advance for your consideration of these points.

Yours sincerely,



Jeremy Wates
Secretary General

ANNEX 1
EEB comments to the Environment Council of 4 March 2016 on:
Follow up to COP in Paris

We enter 2016 with a fundamentally new international platform for climate policy. Despite shortcomings in the Paris treaty, the fact that 195 countries are now in agreement and have set stricter objectives to tackle climate change will have repercussions on politics around the globe. For the first time in history all countries have agreed to take drastic action to protect the planet from climate change, to jointly pursue efforts to limit temperature rise to 1.5°C and to rapidly reduce emissions towards net zero in the second half of the century. The historic Paris deal calls for a new set of climate and energy policies also in the European Union.

It is in the first instance the responsibility of the Environment Council this March to assess how the Paris Agreement impacts the domestic policies in the EU. The EEB considers it crucial to ensure that the momentum created in Paris for adequate climate action will be maintained. The EU rapidly needs to scale up all its present emission and energy targets, deliver its fair share of already agreed climate financing to developing countries, promote additional financing, and offer new support to address climate loss and damage in the countries that have done little to cause climate change but that are already suffering significantly from its effects.

This first signal that the European Union gives is crucially important to demonstrate that the Paris Agreement will be translated into dynamic action at home in all countries. 2016 has been declared to be the year of delivery and we cannot continue with business as usual. Anything other than a clear commitment to increase ambition would set a damaging example, particularly as current climate action plans will lead to a dangerous rise in global temperature to 3°C and beyond.

The EEB therefore calls on the Environment Council to:

- *Acknowledge the need to reassess and strengthen the existing policies to bring them into line with the new commitment to pursue efforts to limit temperature rise to 1.5°C above pre-industrial levels;*
- *Demand a reorientation of EU climate policy to go for the upper limit of the 2050 objectives, strengthening the long term goals (Paris Agreement, articles 2(a) and 4.1), and increase the target ambition for 2030, stressing the need to increase action for all sectors as part of a revision of the current inadequate climate targets (INDCs) (Paris Decision, paragraphs 17-24);*
- *Call on the Commission to deliver an assessment of the changes needed to the 2050 roadmap in light of the new goal to pursue efforts to keep global warming under 1.5°C degrees, and correspondingly update the modelling for the Emissions Trading System, ESD, LULUCF, Energy Efficiency Directive and Renewable Energy Directive and measures for international shipping and aviation and put them in the proper legal framework through the upcoming legislative proposals;*
- *Ensure that the EU delivers a shift of financial flows as defined in the Paris Agreement, article 2(c)). Making all financial flows consistent with low greenhouse gas emission and climate resilient development requires the EU in the first place to tackle those financial flows that are obstructing emission reductions, such as subsidizing fossil fuels and providing financing to fossil based investments through European development banks.*

ANNEX 2
EEB comments to the Environment Council of 4 March 2016 on:
EU action plan for the Circular Economy

On 2 December 2015, the European Commission released its new Circular Economy Package. It proposes revisions of the EU directives on waste, packaging and landfill and slightly amends other waste laws. The legal proposals are complemented by a communication setting out an EU action plan for the Circular Economy. The EEB welcomes the list of issues addressing production, consumption, waste management, secondary raw material markets, innovation and investments, key sectors, as well as monitoring progress on resource efficiency. This could potentially lead to meaningful policy measures to further advance the circular economy in Europe.

However, despite a clear call from civil society groups, progressive businesses and the European Parliament to maintain ambition levels from the 2014 Circular Economy Package, we are now confronted with weaker proposals for the revised waste legislation. According to the EEB, this is not compensated for through all the good intentions mentioned in the EU Circular Economy action plan. First, according to the Commission's own impact assessment, the weaker waste targets will lead to missed opportunities of €22 billion net savings and creation of 37,000 additional jobs by 2030, and it will decrease GHG savings by 188 Mt CO₂eq between 2015 and 2035. Second, at this point there is no clear indication that the Commission will finally 'walk the talk' on other parts of the circle. This is illustrated by the delay on two concrete measures listed at the top of the action plan: the adoption of a new Ecodesign working plan, supposed to cover the period 2015-2017, and the not yet released requirements on displays and TVs that have been stalled for several years. Both are supposed to address resource use aspects at the design stage of products, and the hesitation by the Commission does not fit well with its declaration and promises.

As a consequence, the Environmental Council should insist on the Commission to take action on immediate resource-saving measures and take clear steps forward to implement the action plan. Strong political support is needed particularly to mobilize the potential of EU-wide product policy instruments for the transition to a more circular economy and the creation of new business opportunities. Green public procurement and other economic incentives must lever market uptake of resource-efficient products and services. Measures for preventing waste and marine littering need to become part of legal provisions instead of being listed only in the non-binding EU action plan. Finally the planned monitoring framework needs to provide clearer direction for reducing the overall consumption of natural resources in Europe.

The EEB therefore calls on the Environment Council to:

- *Call for the swift release of an ambitious Ecodesign Working Plan grasping the immediate potential of circular economy aspects at the product design stage, notably of electronics and ICT;*
- *Push for information requirements on product durability, extended warranty time, availability of spare parts and access to repair services and support a reform of consumer rights;*
- *Insist on a requirement for disclosure on material content of products and traceability for chemicals of concern across value chains, as a first step of realizing the idea of product passports;*
- *Require definition of binding targets and measures for the prevention of food waste and marine littering, as well as for preparation to reuse;*
- *Make sure that the Commission establishes procedures for product design requirements on reparability, reusability and recyclability also for non-energy related products;*
- *Make green public procurement the default option and strengthen existing targets;*
- *Ease the setting of economic incentives and disincentives, notably through VAT rate variation; and*
- *Call for development of a headline target and indicators on resource efficiency, with a view to guiding policy options towards an absolute reduction of resource consumption in Europe.*

ANNEX 3

EEB comments to the Environment Council of 4 March 2016 on: Follow up to the Sustainable Development Goals

The EEB warmly welcomed the adoption of the 2030 Agenda for Sustainable Development in September 2015. This comprehensive, universal agenda for sustainability requires a significant reorientation of the top-level political priorities of the European Union, and in particular those of the Commission. The 2030 Agenda now needs to be implemented together with its 17 sustainable development goals (SDGs) and the 169 targets on EU and MS level. It is essential now that the EU which played a constructive role in the development of the SDGs continues to take a lead in their implementation. This should happen through an overarching EU Strategy and a concrete implementation plan based on the principles and goals of the 2030 Agenda for the European context.

With respect to the EU level, the implementation plan should be based on the results of the European Commission's ongoing gap analysis, where existing EU policies and processes should be scrutinised in light of the need to achieve the 2030 Agenda in its entirety, not selectively, including all the goals and targets, adapted where appropriate. Detected gaps should be followed up with new actions. This should be supported by an institutionalised governance structure, between the relevant DGs for the coordination of the implementation of the 2030 Agenda for Sustainable Development, including a structure for civil society consultations for associated implementation and review of policies.

The Commission should design strong monitoring, review and accountability mechanisms. The European Semester should be used in this respect to promote environmental and social goals, reversing the unfortunate situation in 2015 when the country-specific recommendations issued by the Commission were almost devoid of environment-related content.

The upcoming review of the Multi-Annual Financial Framework provides a further opportunity to align the EU's major spending lines with this new agenda.

The EEB therefore calls on the Environment Council to:

- *Support the development of an EU Strategy for Sustainable Development, including an implementation plan covering all 17 goals and 169 targets, using existing EU sectoral strategies, elevating ambitions where necessary and starting new actions on the gaps;*
- *Request the Commission to establish an institutionalised coordination structure between the several DGs to achieve policy coherence and cover interlinkages, including a consultation structure for civil society groups;*
- *Support the creation of similar structures at national level;*
- *Continue the good practice of organising 'Jumbo' council meetings, although not only on external policies but also regarding internal policies to improve coherence;*
- *Commit to a reform of European Semester Process in order to align it with all the goals, targets and indicators of the 2030 Agenda for Sustainable Development.*

ANNEX 4

EEB comments to the Environment Council of 4 March 2016 on: Court Ruling on Endocrine Disrupting Chemicals

The EEB is deeply concerned by the European Commission's response to the General Court ruling that the Commission has violated EU law by failing to adopt measures concerning the specification of scientific criteria for the determination of endocrine-disrupting properties (EDCs) with the prescribed deadline according to Regulation No 528/2012 concerning the placing on the market and use of biocidal products. The General Court also concluded that the impact analysis of costs and benefits currently being performed by the Commission, which the Commission has referred to in order to attempt to justify the delay, is not required and that the socio-economic costs and benefits of different options for such criteria are not relevant since the criteria should be based on the science related to the endocrine system only, independently of all other considerations, in particular economic ones.

The EEB was dismayed to hear the first reaction of the Commission's spokesperson to the Court's ruling, since confirmed by Commissioner Andriukaitis to the European Parliament, which implies that, by continuing to carry out the impact assessment, the Commission has no intention of complying with the law. This apparent disregard for a court decision is even more disturbing given the Commission's role as guardian of the Treaties. The political consequences for the EU of a Commission that would effectively be placing itself above the rule of law, in particular at a time of growing Euroscepticism, is deeply troubling.

If the Commission were to continue with this approach, it would link its 'Better Regulation' agenda to not only a deliberate delay of urgently needed regulatory action to protect Europe's citizens' health from hormone disrupting chemicals but now also to a blatant violation of the law.

Justifying such a course of action on the basis of Europe's need for jobs and growth is also inappropriate, as the health costs of diseases related to EDC exposure in Europe are estimated to be over €150 bn annually – an estimate which is likely to be an underestimate and represent only a subset of the true costs – and most of these costs are derived from health impacts from pesticides.

The EEB therefore calls on the Environment Council to:

- *Condemn the Commission for the delay in presenting criteria on EDCs by December 2013, as required by the EU law on biocides, and its intention to prolong the delay further in violation of the General Court ruling;*
- *Insist that the Commission ceases the impact assessment and immediately adopts the scientific criteria in accordance with the Commission draft recommendation of June 2013;*
- *Request the Commission to carry out a review of the Commission's use of impact assessments and the extent to which this is causing unnecessary delays in regulatory action and feed this into a wider overhaul of the Commission's 'Better Regulation' agenda;*
- *Insist that the Commission avoid the use of potency as a threshold for the criteria as potency is not relevant to EDCs and instead bases the criteria on EDCs on the level of evidence for hazardous properties, as is the case for the identification of carcinogens, mutagens and reprotoxic substances (CMRs);*
- *Recommend the Commission to avoid proposing any regulatory changes to the pesticides regulation.*

ANNEX 5

EEB comments to the Environment Council of 4 March 2016 on: Minamata Package

The European Commission has quietly launched its new mercury package on 2 February 2016, moving the EU a step closer towards ratifying the Minamata Convention on Mercury. While the EEB welcomes the fact that the new package is now out, its content reflects a minimalistic approach and fails to meet even the lowest of expectations.

The package sets out plans to update existing EU law in line with the internationally-agreed goals to limit mercury supply, use and emissions under the treaty. Despite the EU having played a leading role in the formation of the Convention, the new plan to put it into practice appears to have fallen victim to the EU's Better Regulation agenda, following the lowest-cost approach across the board rather than promoting higher levels of environmental protection. It effectively ignores the outcome of a public consultation, progressive industry voices (e.g. regarding a full batteries export ban), and even the scientific findings of its own impact assessment (e.g. regarding the proposals on amalgam). Elsewhere, other 'new' proposals are simply a repackaging of measures already required under existing EU legislation (e.g. installing amalgam separators), and some of the treaty requirements seem not to be covered by the proposal at all (e.g. regarding the chocolate industry).

The EEB therefore calls on Environment Council to:

- *Rapidly proceed with ratification of the Minamata Convention, without compromising the quality of the proposed regulation on mercury; and*
- *Strengthen the Commission's proposal in the following ways:*
 - *Ban the exports of mercury-added products in all cases when they are not allowed in the EU market, to avoid double standards and to ensure they are not reaching countries with no or poor regulations to manage mercury – since alternatives exist, such a measure will promote mercury-free markets and drive prices down;*
 - *Ban altogether the use of mercury in facilities located in the EU for the processes referred to in the Minamata Convention . Phase out provision for the chocolate industry should be foreseen as per the requirements of the Treaty;*
 - *Specify conditions for environmentally safe disposal of metallic mercury with preference for solidified/stabilized mercury disposal in underground facilities;*
 - *Ban mercury use in Artisanal Small Scale Gold Mining;*
 - *Phase out dental amalgam, taking into account that mercury-free dental restorations are available, affordable, effective and preferred by most EU citizens. Phase out is the most cost-effective way to prevent dental mercury pollution;*
 - *Set up a trade tracking system to record information from exports and imports of elemental and compound mercury between MS, between the EU and external countries and also within the industry sector.*