

To: Environment Ministers of EU Member States
Cc: Commission President, Executive Vice-President for the European Green Deal and Commissioners for Environment, Transport, Energy, Justice, Industry, Agriculture, Economy, Health and Food Safety and the Chair of the European Parliament Environment Committee

Concerning: Input to the EU Environment Council Meeting, Brussels, 19 December 2019

Brussels, 13 December 2019

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. We have structured the letter according to our understanding of the 19 December Council Agenda, and given the particular importance of the European Green Deal (EGD) Communication, have allocated particular space to this point to provide input into your discussions as well as subsequent engagement to ensure that the EGD becomes a truly transformative agenda as the concrete initiatives follow in 2020.

1. European Green Deal

On Wednesday 11 December 2019, the European Commission presented its European Green Deal in Brussels in its Communication on the topic – the first step in a potentially era-defining policy for the EU. Expanding on the commitments laid down in her Political Guidelines, European Commission President Ursula von der Leyen presented a vision for a greener Europe. She called for significant climate and environmental action over the next five years engaging a “whole-of-government” approach.

The Green Deal Communication will be followed and complemented by a roll out of measures over 2020 and 2021 and significant political attention will be needed to ensure that these meet the needs identified by the science on climate, on biodiversity loss, environmental degradation and health impacts.

Commission Executive Vice President Frans Timmermans has been tasked with overseeing the Green Deal, which – if fully embraced by leaders in national capitals – is meant to, and needs to, bring transformative benefits to people and nature in Europe and around the world. The European Green Deal’s success will depend on an EU budget which must be sustainability proof and fully aligned with the Green Deal, and on strong measures accompanying it, in particular, to reduce social inequalities across the Union and globally. It will also require the Council and Parliament to keep the Commission to the promises made. They are essential for the future of Europe.

The Communication includes a number of positive commitments that build on the promises made in the Political Guidelines and that will be a step towards the needed transformative agenda. These commitments, if fully implemented, will be a significant step forward on past policy commitments and towards meeting the needs. However, there are many elements missing from the EGD Communication,

questions that have yet to be answered or details that have yet to be provided, so the content of the various instruments that will be released in the coming months and beyond, as foreseen in the Annex to the Communication, will be just as important as the content of the Communication, if not more so.

We therefore call upon the Environment Council to:

- **Support the commitment in the European Green Deal to ‘deeply transformative policies’ as well as the specific ambitious elements in the Deal that will lead to that deep transformation;**
- **Commit to scrutinising all the separate instruments that will deliver on the Deal, when they are released in the following months as foreseen in the Annex to the Deal, to ensure that they deliver the required level of ambition and address omissions or weaknesses in the EGD Communication itself.**

Some preliminary reactions on specific elements in the EGD Communication are included in Annex 1.

2. Preparation of the post 2020 global biodiversity framework Convention on Biological Diversity (CBD)

You will adopt Council Conclusions in preparation for COP15 under the Convention on Biological Diversity highlighting the urgency of enhanced global action and the need to step up action and ambition of the EU and its member States. The EEB would welcome Council Conclusions and commitments to *inter alia* mainstream biodiversity into the new Common Agricultural Policy. Furthermore, in order to have credibility globally, the EU and its Member States must continue advocating for a rigorous post 2020 global biodiversity framework under the UN Convention on Biological Diversity with a mission to halt and reverse biodiversity loss by 2030 and this needs to be accompanied by coherent and ambitious action in the EU.

We therefore call upon the Environment Council to:

- **Work with the European Commission to adopt a transformative EU Biodiversity Strategy to 2030 with a particular focus on nature restoration, ambitious implementation and enforcement of nature, water and marine acquis as well as addressing drivers of biodiversity loss through legally binding targets for the EU and Member States, The Strategy must include legally binding targets for restoration of the ecosystems important for biodiversity and climate such as natural forests, peatlands, wetlands, biodiversity rich grasslands, coastal zones and marine areas.**

3. **Climate: EU's Long term Strategy, the Climate Law and Just Transition & COPs 25 and 26 of the United Nations Framework Convention on Climate Change** (Madrid, 2-13 December 2019; and Glasgow, November 2020)

The EU's position on climate change mitigation features in the European Green Deal, the EU's long term strategic vision for a climate neutral economy discussed at the European Council on 12th and 13th of December and the EU's international role at the UNFCCC COP in Madrid and in 2020 in Glasgow.

The LTS and EU's climate targets are being proposed against the backdrop of the European Parliament vote recognising the climate emergency, the evidence that with current commitments the Paris goal of staying within 1.5°C or at most 2°C warming will fail, and a growing demand from youth to scientists to embrace a truly transformative change.

The EU's strategic long-term vision for a climate neutral economy, 2030 and 2040 targets, and practical measures to catalyse transformative change are each essential. Ambitious commitments are needed to respond to the climate emergency and to the youth marches in Europe and across the globe, as well as to increase the EU's moral position and its legitimacy to push for greater global commitments and facilitate its leadership role in the forthcoming UNFCCC COP 26 in Glasgow in November 2019.

We therefore call upon the Environment Council to:

- *Take note of the reports released by the **Intergovernmental Panel on Climate Change (IPCC)** and agree to base its policy decisions on the scientific findings.*
- *Request the **Commission to put forward a work programme** that translates the findings of the IPCC reports into concrete policy proposals for 2030, 2040 and 2050. **Promote ambitious 2030 European climate and energy policies** – with **greenhouse gas emission reductions of at least 65% by 2030**, with an increase of the **energy efficiency target of at least 40%** and at **least 45% of energy sourced from sustainable renewable energy** by 2030. These commitments are needed well in advance of the November 2020 COP 26.*
- ***Ensure a substantial increase of the EU's Nationally Determined Contributions (NDCs) as timely input to the COP26 climate negotiations:** the EU's leadership in the High Ambition Coalition means that the Environment Council has the responsibility to give its full support to the European Commission in the submission of the revised NDC and the LTS.*
- ***Press for a greater level of climate ambition in the MFF to “walk the talk” of its commitments.** There is a need for a significantly higher climate share of the EU budget - 40% rather than 25% - ringfencing of sustainable Paris-compatible funding and exclusion of funding for Paris-incompatible measures that lock in future fossil fuel use and GHG emissions. In addition, the accounting for climate contributions needs to be strengthened, and real climate contributions monitored and assessed so that the budget is truly a climate budget and not just one on paper.*
- *Implement the EU's and its Member States' commitment to scale up the **mobilisation of international climate finance**, as part of the collective developed countries' goal to jointly mobilise USD 100 billion per year by 2020 through to 2025 for mitigation and adaptation purposes in developing countries.*

- **Ensure policy synergies between climate and circular economy** (and integrated into a new industrialisation strategy), **climate and biodiversity** via nature management and restoration agendas (peatlands, wetlands, forests, coastal sea grasslands), **climate and agriculture** by strengthening the CAP to drive higher investment in measures that increase soil carbon content and hence storage, with added benefits for soil fertility and productivity, and **climate and air pollution policies**, given the evidence of a wide range of health impacts from exposure to polluted air. **Enhanced coherence** is essential if EU policies are to be a compelling driver to help address the climate emergency.
- Establish a working group to **create synergies** with and maximise the climate contribution from the **other Rio Conventions (UNCBD and UNCCD)**, the **UN Forum on Forests**, the **Sendai Framework on Disaster Risk Reduction** and the **UN Sustainable Development Goals**.
- The transition to a carbon neutral economy will require a system change and will have major effects on different countries and communities – **a just transition initiative** is needed to facilitate the transition, for regions to switch from fossil fuels to carbon neutral fuels, to invest in energy efficiency and industrial transformation, as well as to adapt to climate change.

4. Water Framework Directive Fitness Check results

The European Commission's fitness check evaluation of the Water Framework Directive (WFD) and related legislation have concluded that the WFD is fit for purpose and the delay in reaching the WFD's objectives is "largely due to insufficient funding, slow implementation and insufficient integration of environmental objectives in sectoral policies, and not due to a deficiency in the legislation". It has also highlighted that the next cycle of river basin management planning will play a key role in ensuring the necessary progress towards achieving the environmental objectives by the 2027 deadline.

The EEB therefore calls on the Environment Council to:

- *Support the findings of the fitness check evaluation of the Water Framework Directive and related legislation and adopt Council Conclusions on how the implementation of these Directives can be strengthened including through adoption of appropriate measures, limiting the use of exemptions, and better use of economic instruments among others.*

5. Fitness Check on Ambient Air Quality Directives (AAQDs)

The AAQD fitness check Commission's Staff Working Document (SWD), published on 28 November 2019, concluded that the AAQDs are fit for purpose and are an essential tool to protect people's health and the environment, with binding limit values playing a fundamental role. The SWD also acknowledges that the AAQDs have not met all of their objectives in full (infringement procedures are ongoing, and many exceedances are still reported) in particular due to the lack of implementation by Member States. The SWD also refers to the upcoming updated WHO guidelines noting that 'EU air quality standards are not fully aligned with existing scientific advice'. During the different phases of

the Fitness Check process, the Common Agricultural Policy was deemed to hamper implementation of the AAQDs: it confirms that policy coherence is essential to achieve air quality objectives.

Member States are also lagging behind in the implementation of the National Emission Ceilings Directive. National Air Pollution Control Programmes had to be submitted to the European Commission by 1 April 2019; those received are now being examined, but 10 Member States did not submit their NAPCPs yet.

In the Communication on the European Green Deal the Commission commits to adopt an air pollution action plan which includes the review of air quality standards so as to align them with the World Health Organization guidelines (updated Guidelines are expected to be published by early 2020). The growing scientific evidence on health impacts from air pollution on human health – early mortality, early onset dementia, cognitive development, lung capacity, cancer – and on the environment – eutrophication, acidification of soil and water, biodiversity loss – demand urgent action.

The EEB therefore calls on the Environment Council to:

- *Fully support **any European and International action that aims at improving air quality**, going beyond the European Commission's commitment to **align EU air quality standards 'more closely' with WHO guidelines and support a full alignment**, at the latest by 2022, as indicated by the European Commission in its answer to the European Court of Auditors special report on air quality (2018);*
- *Adopt an **ambitious and coherent Council position on the Common Agricultural Policy** so as to ensure that it also delivers on existing air quality objectives established by the Ambient Air Quality Directives and the National Emission Ceilings Directive.*

6. Report on European Union implementation of the Aarhus Convention in the area of access to justice in environmental matters

Following the June 2018 Council Decision which invoked Article 241 TFEU requesting the Commission to submit a study on the options for addressing the non-compliance with the Aarhus Convention, the Commission presented the study and its report on the study in October 2019. The report and accompanying study supported the widely held recognition that an amendment to the so-called Aarhus Regulation (EC 1367/2006) is necessary to ensure that NGOs and citizens have proper access to the Court of Justice in environmental cases. The report also highlighted the need to address access to justice at Member State level. In the European Green Deal announced on 11 December, the Commission signalled its intention to work on both fronts, by considering proposing an amendment to the Aarhus Regulation and to take action to improve access to justice in the national courts. According to the June 2018 Council Decision, the Commission was requested to present a legislative proposal to amend the Aarhus Regulation in a way that it addresses the EU's non-compliance with the international convention by September 2020.

The EEB therefore calls on the Environment Council to:

- *Endorse the conclusions of the Commission report and study which recognise that **amending the Aarhus Regulation** is the only effective way to address the EU's non-compliance with the Aarhus Convention and to remind the Commission of the Council Decision of 18 June 2018 whereby such an amendment is expected to be presented **by September 2020**.*
- *Endorse the conclusions of the Commission report and study which highlight the need to work with the Member States to address the problem for **NGOs and citizens to access national courts** in environmental cases, end express support to work with the Commission to tackle the problem of access to justice at national level.*

7. Third meeting of the Conference of the Parties to the Minamata Convention on Mercury (COP 3) (Geneva, 25-29 November 2019)

The Minamata Convention entered into force on 16 August 2017. It has 128 signatories and 115 ratifications including the EU and 22 Member States (December 2019). The EU has been a frontrunner in terms of mercury legislation, yet in some areas it was falling short. The revised EU mercury regulation, adopted in May 2017, put in place, and in some areas went beyond, requirements of the Convention that were not already covered by existing EU law.

Following the entry into force of the Convention, three Conferences of the Parties (COPs) took place in Geneva, in September 2017, November 2018 and November 2019. These meetings took decisions on structural issues, which are important in determining the future impact of the Convention, resulting in measurable and substantial reductions in global mercury use, trade and emissions.

Most recently, COP 3 took decisions along the lines of our recommendations, among others, to:

- Put in place the process to review and enlarge the scope of mercury-added products (including dental amalgam) and processes which need to be phased out, with expert participation including by NGOs;
- Continue the work towards developing harmonized customs codes to better identify mercury-added products;
- Continue intersessional work towards identifying and controlling releases to land and water, by clarifying issues such as responsible authorities for wastewater;
- Continue the work towards developing waste thresholds for 'waste contaminated by mercury or mercury compounds', adopting the list of wastes falling under each category, identifying the special consideration needs for tailings from artisanal and small scale gold mining, and strengthening the cooperation with the Basel Convention technical group updating the technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with mercury or mercury compounds;
- Adopt guidance on contaminated sites.

Concerning the arrangements for the first effectiveness evaluation, while a list of indicators and a framework of work were agreed upon, the work did not conclude as expected; the COP did not manage to agree on a concrete intersessional process where issues raised during the expert group work could further be discussed; views on the agreed indicators will be compiled by the Secretariat and services will be requested to draft a guidance on monitoring among other reports.

The EEB therefore calls on the Environment Council to:

- ***Ensure that the EU maintains its leadership in the Minamata process, with a view to further strengthening the Convention via the abovementioned processes.***

Thank you in advance for your consideration of these points which support the ambitions of the European Green Deal and will help catalyse progress in meeting the environmental challenges facing Europe and the planet. This will respond to scientific evidence and also support EU and national legitimacy in the eyes of the electorate and those engaged in the street marches who are as yet too young to vote.

Yours sincerely,



Jeremy Wates
Secretary General

ANNEX 1

EEB Preliminary Reactions to The European Green Deal

On Wednesday 11 December 2019, the European Commission presented its European Green Deal in Brussels. The Communication includes a number of positive commitments that build on the promises made in the Political Guidelines and that will be a step towards the needed transformative agenda. These commitments, if fully implemented, will be a significant step forward on past policy commitments and towards meeting the needs. The content of the various instruments that will be released during 2020 and 2021, as foreseen in the Annex to the Communication, will be just as important as the content of the Communication, if not more so. Following are EEB's preliminary reactions to the European Green Deal, including recommendations.

- The European Green Deal promises to deliver the first **Climate Law** by March 2020 enshrining the objective of climate neutrality by 2050. The carbon neutrality objective is highly welcomed, but the 2050 target will be too late if we are to meet the Paris 1.5°C target. The promised revision of the 2030 greenhouse gas (GHG) emission reduction target of 50-55% is in the Communication is again too low to meet the 1.5°C target. To meet this, a reduction of at least 65% by 2030 is needed, and carbon neutrality by 2040, as well as global action. Each of these is of course very challenging, but essential. EU global climate diplomacy and leadership is crucial.
- **Air quality.** The commitment to adopt a zero pollution action plan, which also covers air, is very welcome. The commitment to adopt the necessary provisions to strengthen requirements on monitoring, modelling and air quality plans is also a positive step forward. As part of the action plan, the Commission commits to propose to revise air quality standards to align them *more closely* with the World Health Organization recommendations: scientific evidence says that there are no safe levels of air pollution, therefore, a full alignment with WHO guidelines is to be considered a fundamental step to take while ensuring the implementation of existing legislation.

A comprehensive action plan will have to ensure policy coherence and to tackle pollution at the source (e.g. from domestic heating, agriculture, all transport means). The implementation of existing legislation (e.g. the Ambient Air Quality Directives and the National Emission Ceilings Directive), also through the Commission's enforcement action, must be part of this action plan, as well as the European Union's commitment to support the adoption of ambitious international agreements (UNECE LRTAP's Gothenburg Protocol revision and a Global Treaty on Air Quality). The Commission's commitment towards zero-emission mobility, covering air pollution and GHGs, is welcome; the same approach and a clear list of upcoming initiatives should be elaborated also for other important source sectors, in particular agriculture, industry and residential heating.

- **Biodiversity:** We welcome the commitment to adopt an EU Biodiversity Strategy to 2030 including targets to increase the coverage of protected land and sea areas and the focus to protect and restore Natura 2000 areas more effectively, though the ultimate effectiveness of the Strategy will depend on the level of ambition in its content, including the targets. Given the

climate and biodiversity emergency, it is welcome that the Commission considers a plan for nature restoration, including legislation, that would improve and restore damaged ecosystems, though again the level of ambition in the targets will be crucial and has yet to be seen. In the EEB's view, this legislation must cover ecosystems that are important for climate and biodiversity, including natural forests but also peatlands, wetlands, biodiversity-rich grasslands, coastal zones and marine areas, as these can all deliver significant carbon storage and biodiversity benefits. The EEB also believes that the New Forest Strategy needs to be integrated into the nature restoration plan and be taken forward carefully. In general, careful consideration of species and genotypes chosen, and the specific land where the afforestation/restoration should take place, will be crucial - not just for biodiversity but also for carbon sequestration and climate resilience.

- **Water:** The commitment to zero pollution action plan for water is welcome including emphasis on restoration of natural functions for biodiversity as well as additional actions to address pollution from urban runoff and from new sources of pollution such as micro plastics and pharmaceuticals. However, this commitment needs to be elaborated further, with credible action on freshwater ecosystem restoration including through new legislation on nature restoration.
- **Industrial chemicals:** We welcome the commitment to present by summer 2020 a chemicals strategy for sustainability in order to ensure a toxic-free environment. The pledges to strengthen the law and develop safer alternatives to hazardous chemicals are particularly welcomed. However, there are important commitments missing in the communication that we hope will be integrated in the EGD work to be presented next year. These are commitments to: rapid phase out of hazardous chemicals and reducing overall exposure to hazardous chemicals; detoxify the circular economy; elaborating an action plan to protect vulnerable populations to prevent risks of exposure; preventing chemicals with severe and long-term effects from entering our bodies and environment; creating new systems to detect and act based on early warnings, which should be financed by the companies that market chemicals of concern; and enabling quick reaction to early warnings by giving full application to the precautionary principle. The EU should now turn words into action to phase out toxic chemicals without delay and ensure protection of the environment and the health of current and future generations.
- **Sustainable food:** The Farm to Fork Strategy outlined in the Commission Communication falls far short of the promises of systemic change. The Common Agricultural Policy could be a crucial policy tool for the transformation of our food system, yet it is unclear how it will support the objectives set out in the EU Green Deal. In addition, the proposed targets are a step in the right direction but remain a piecemeal approach that does not match the massive scale of change needed, of which the State of the Environment Report 2020 was a stark reminder. **The Farm to Fork strategy** must adopt a holistic and coherent approach to initiate a transition to sustainable food systems. This requires targets on all dimensions of sustainable food (including climate, biodiversity, air, water, and soil), and tackling issues related to production, consumption, and trade.

- **Finance:** The EGD recognises the fundamental importance of raising finance to address climate change and the other environmental crises. In this regard, the **MFF** needs to be fully EGD-compatible and sustainability-proof. To this end, it is not enough to earmark a part of the funds for climate action and other objectives; the total budget needs to drive sustainability. The next MFF needs to exclude all subsidies for fossil fuels as well as the financing of non-sustainable infrastructure that create lock-ins. See the EEB and partners' [latest report on greening the EU budget](#). Furthermore, the scale of the funding needs is such that the flexibility mechanism should be applied to avoid the 3% debt ceiling in the Growth and Stability Pact being a constraint. The Council could stipulate that climate mitigation expenditure be exempt from the debt ceiling constraint.
- The **green oath: 'do no harm'** contains welcome elements, notably the promise that evaluations systematically assess coherence between current legislation and new priorities, raising the prospect of legislation, other tools and enhanced implementation to achieve the deep transformative change and achieve a successful and just transition towards a sustainable future. On that note, there is no mention of the **'one-in-one-out' principle** appearing in the "Mission Letters" to the new Commissioners, and thus it remains unclear to what extent this highly problematic principle will present a major risk to the European Green Deal. It is clear that additional measures are needed to address the climate emergency, the biodiversity crisis and health impacts from chemicals and air and water pollution among others, and to help to realise the commitments to a circular economy transition.
- **Agenda 2030 and SDGs:** Apart from the promise to better integrate the SDGs into the European Semester, the overall integration of the EGD into the wider framework presented by the 2030 Agenda and the SDGs remains weak. This Commission's main plans and strategies, such as the EGD, need to be embedded into a long-term sustainable development strategy and an implementation plan for the SDGs in and by the EU up to 2030 – and beyond. We need the Commission President to take personal responsibility for the sustainable development of the EU. We need the European Semester to turn into the EU's Sustainable Development Cycle based on clear climate and environmental targets, the reduction of inequalities and the increase in well-being.
- **The European Green Deal as a growth strategy:** The emphasis on the EGD as a growth strategy and the implication that decoupling of resource use from economic growth will be sufficient to allow growth to continue unchecked appears to ignore the role played by the current economic model in creating the environmental problems we face. The European Green Deal should ensure the increase of well-being for people and planet, and not focus on GDP growth alone, as evidence underlines that a growth in GDP generally leads to more environmental pressures and does not automatically lead to increased wellbeing.

See also EEB's [earlier detailed report on priorities and opportunities for the European Green Deal](#) showing what it needs to deliver on. The EEB will be preparing a more detailed reaction to the Green Deal in 2020 and will share insights and recommendation on many of the instruments and initiatives promised in the Annex of the European Green Deal. These will also feature in future letters in advance of the Environmental Council meetings.