



EEB

European
Environmental
Bureau

THE EEB'S

MEMORANDUM

TO THE CROATIAN PRESIDENCY
OF THE EUROPEAN UNION



Including the Ten Green Tests

JANUARY - JUNE 2020

Prepared in cooperation with Seas At Risk



EUROPE'S LARGEST NETWORK
OF ENVIRONMENTAL CITIZENS'
ORGANISATIONS



Prepared in cooperation with Seas At Risk



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European Environmental Bureau (EEB)
Publication: December 2019

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An International non-profit Association
Association Internationale sans but lucratif
EC register for interest representatives:
Identification number 06798511314-27



With the support of
the LIFE Programme
of the European Union

This communication reflects the authors' views and does not commit the donors.

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INTRODUCTION

The Croatian Presidency is Croatia's first EU presidency, the first full presidency after the launch of the European Green Deal communication on 11 December 2019 and the final of the current trio presidency comprising Romania, Finland and Croatia. It is also a bridge to the next trio presidency comprising Germany, Portugal and Slovenia.

On 31 October 2019, the Croatian Presidency launched its official six-month programme - ***A Strong Europe in a World of Challenges*** - that embraces four priorities: A Europe that develops; A Europe that connects; A Europe that protects; and An influential Europe. It recognises that *an ambitious, balanced and sustainable EU Multi-Annual Financial Framework for 2021-2027 is a prerequisite for achieving our goals*. Environmental protection and fighting climate change are explicit priorities in the programme - from a Green Europe, to a just transition to a low-carbon and circular economy, to conservation of biodiversity, protection of marine and coastal areas, efficient water and waste management, and sustainable tourism. The programme also underlines the importance of the EU being a leading international player and global partner. Furthermore, there is a specific focus on South East Europe, aiming to guarantee progress and stability, and a continued credible and effective enlargement policy.

We therefore look forward to the Croatian Presidency of the EU driving a positive agenda to address the above environmental challenges facing Europe in a quickly changing geopolitical reality at home and globally.

This Memorandum, prepared in cooperation with Seas at Risk, reflects on the issues that the EEB would like to see advanced during the Croatian Presidency. The most important issues are highlighted in the Ten Green Tests. These were adopted by the EEB Board which has representatives from more than 30 countries and several European networks. At the end of June 2020, the Ten Green Tests will be used to evaluate the Presidency's performance over the coming months. While the Memorandum is directly addressed to the Presidency, we recognise that progress depends upon the cooperation of the European Commission, the European Parliament and other Member States, as well as the Council President. However, EU Presidencies can often make a difference if they invest their political and technical capacities in the right issues and if there is sufficient political will.

We look forward to engaging in a constructive dialogue with the Croatian Government throughout the Presidency and beyond.



Jeremy Wates

Secretary General



TEN GREEN TESTS FOR THE CROATIAN PRESIDENCY

We call upon the Croatian Presidency of the European Union to promote a greener, more sustainable Europe, where humankind's destructive impact on the climate, biodiversity and public health in Europe and beyond is rapidly decreased in line with citizens' expectations and scientific imperatives, through the following measures:



1. Launch and implement transformative agendas to catalyse a just transition to a sustainable Europe

- Request that the European Commission embraces the **triple transformative agendas**, comprising the **European Green Deal (EGD)**, the **8th Environmental Action Programme (8EAP)** and the **Agenda 2030 and SDGs**, and ensure due ambition, coherence and complementarity; and integrate social measures in each, via the **Just Transition Initiative**, the **MFF** and other measures to develop a new **Social Contract for the future of Europe**;
- Request the new Commission to immediately start working on a **Sustainable Europe 2030 Strategy**, to serve as the overarching strategy guiding all EU policies and programmes, with clearly defined EU-wide targets, responsibilities and timelines for the ambitious implementation of the SDGs in and by the EU in line with the recent Council Conclusion of 10 December 2019;
- Ensure that the **European Budget (MFF) is EGD-compatible** and a true climate and sustainability budget; aim for minimum 1% budget for LIFE, ring-fence €15bn for nature protection and restoration, 40% for climate mainstreaming;
- Promote progress on environmental legislative coherence in **EU Accession and European Neighbourhood Policy Countries**, including the **Balkans** and convergence of standards via diplomacy, technical assistance and funding;
- Transform the **EU's trade policy agenda** to one with sustainable development and an emergency level response commensurate with the biodiversity, toxics and climate crises at its heart, and in the short term insist on significant changes to the proposed EU-Mercosur Trade agreement to reflect these priorities prior to any finalisation or ratification of the deal; and ensure that the EU's mandate for negotiating a trade deal with the UK is firm on requiring **a level playing field set by the EU's environmental standards, high level of protection and the precautionary principle**.



2. The European Parliament declared a Climate Emergency: Act accordingly

- In the follow up to UNFCCC COP25, secure endorsement of a European Climate Law that **commits to net-zero greenhouse gas by 2050 at the latest and preferably by 2040**, complemented by a **European Climate Pact** to get a whole of EU approach; **support an increase of the 2030 GHG, energy efficiency and renewable energy targets, securing a GHG emission reduction target of at least 65% by 2030** in time for the COP26 in Glasgow, and help demonstrate EU leadership;
- Prioritise regulatory efforts to **close any gap between the EU's 2030 climate and energy targets (energy efficiency and renewables) and the national contributions** and to improve the draft national energy and climate plans (NECPs);
- Encourage an **industrialisation strategy that integrates circular economy measures to support the transition to a net-zero greenhouse gas economy by 2050**; use performance-based standards to the fullest extent i.e. the EU BREFs to address GHGs as well overhaul of the Industrial Emissions Directive;
- Promote a **zero-carbon construction sector**, notably by calling for an accelerated 3% renovation rate, full decarbonization of heating and uptake of carbon neutral construction products;
- Negotiate for a **truly Paris-compatible MFF** and ensure that robust measurement methods for carbon saving allocations from EU spending are integrated into the MFF and remaining legislative acts being negotiated (CAP);
- Encourage due ambition for the **Energy Tax Directive** reform and associated **carbon border tax** to facilitate progress with GHG mitigating incentives, complemented by urgent promotion of **harmful subsidy reform** (and clear timetable for their phase out in the **National Energy and Climate Plans** as requested by the Commission), **Paris-compatible State Aid Guidelines** and **Action Plan on Green Financing**.

3. Recognise the dramatic loss of biodiversity and respond to this existential crisis

- Lead the **preparation of an ambitious EU position on the global biodiversity policy framework post 2020** to be adopted at the CBD COP 15 in Kunming in October 2020 including proposals for strong implementation and accountability mechanisms;
- Work closely with the European Commission in **adopting a transformative EU Biodiversity Strategy to 2030 as part of the European Green Deal**, including legally binding restoration targets for ecosystems important for biodiversity and climate such as wetlands, peatlands, biodiversity rich grasslands, marine ecosystems and free-flowing rivers. Ambitious action at home will allow the EU to demonstrate credible leadership on biodiversity in the global negotiations for the post-2020 biodiversity framework;
- Step up implementation of the **EU's nature, water and marine legislation** as well as **improve their coherence with other EU policies** and **mobilise sufficient funding** for reaching their objectives. In particular, encourage a reformed CAP and CAP Strategic plans to reduce risks to biodiversity from agriculture;
- Ensure that **harmful fisheries subsidies**, banned by the EU in 2004, are not reintroduced in the next **European Maritime and Fisheries Fund** in the ongoing trilogue negotiations;
- Lead the development of an ambitious Council position on the revision of the **Control Regulation** to ensure full compliance of the fishing sector with fisheries and nature laws, requiring fully documented and transparent fisheries;
- Encourage all Member States to **adopt fisheries management measures in their Marine Protected Areas**, including by the use of the Article 11 CFP mechanism, and to protect sensitive species against fisheries bycatch under the Technical Measures Regulation, and lead by example by starting the processes for Croatia;
- Ensure effective long-term protection measures for the **Eastern Baltic Cod** in the amended **Baltic Multi Annual Plan**.





4. Initiate a transition towards sustainable food and agriculture

- Ensure that there is a **comprehensive discussion of the CAP in both the Environment and Agriculture Council** formations, with involvement of environmental stakeholders;
- Mobilise **political support for a bold reform of the CAP** which ends subsidies harmful to the environment and climate, enables a transition to sustainable agriculture, and strengthens Member States' accountability in the new CAP;
- Work closely with the European Commission to develop a **transformative Farm to Fork Strategy that drives a transition to sustainable food systems** (that also considers fisheries) and to engage civil society across the EU in a public debate about the future of the EU's food system.



5. Safeguard freshwater ecosystems and clean water for all

- Lead the preparation of an **ambitious response to the fitness check evaluation of the Water Framework Directive (WFD)** and related legislation, recognising that the WFD is fit-for-purpose and ensuring that the evaluation results in the improved implementation and enforcement of the WFD so that its objectives can be fully met by 2027;
- **Improve policy coherence and integration of the objectives to protect and enhance the health of freshwater ecosystems into other sectoral policies** notably in relation to agriculture, energy, industry, chemicals, and transport policies, to reduce pressures from those sectors (e.g. pesticides, nitrates, thermal pollution, hydromorphological alterations, over-abstraction);
- **Work with the European Commission to develop a joined-up restoration agenda** as part of the EU Biodiversity Strategy to 2030 to protect and restore free-flowing rivers and supporting nature-based solutions in the implementation of the Water Framework and Floods Directives to specifically address collapse in freshwater biodiversity;
- **Recognize the negative impacts of hydropower on biodiversity and actively discourage the construction of new dams using diplomacy, policies and funding**, and protect and **restore free flowing rivers** – with a particular focus on the EU six Eastern partnership countries where the risks are particularly significant;
- Work with the European Commission to **develop an ambitious Water Action Plan proposed in the European Green Deal** that inter alia advances action to tackle pollution from substances of emerging concern (e.g. pharmaceuticals, microplastics) and ensures access to water via the implementation of the revised Drinking Water Directive and supported by MFF expenditure to improve public water supply and wastewater treatment.



6. Recognise the health impacts of air pollution and the need for a progress clean industrial policy

- Ensure an **ambitious response** to the outcome of the **Ambient Air Quality Directives fitness check** – work to align EU air quality standards to latest WHO guidelines (expected soon), while Member States achieve full implementation of existing legislation (e.g. Ambient Air Quality Directives and National Emission Ceilings Directive);
- **Ensure that the Commission undertakes a comprehensive review of the Industrial Emissions Directive**, delivering improved pollution prevention at source and a re-defined scope to promote the ecological transition of industrial activities¹ ; integrate CO₂ and extend scope e.g. cattle and intensive aquaculture; redesign the EU BAT concept to provide the best ratio of environmental impact of an industrial activity for the provision of a given product or service. Priority areas: energy production, water quality and supply, protein production, resource management;
- Ensure a comprehensive review and support the revision of the **Gothenburg Protocol** that leads to it also covering **methane, black carbon and mercury emissions**;
- Adopt an ambitious Council position on agricultural air pollutants during the CAP negotiations, so as to reduce air pollution at the source;
- **Overhaul of reporting requirements to strengthen enforcement and performance benchmarking of economic actors (e.g. IED Registry / PRTR)**: establishment of EU wide centralized and powerful database allowing better benchmarking of real-time environmental performance of economic actors and better use of information for other purposes such as identification of pollution prevention methods, enabling progress tracking towards SDG achievement, diffuse emissions from products, with proper consultation of end-users.

7. Promote safe chemicals and a toxic-free environment

- Ensure that under the European Green Deal, the **Sustainable Chemicals strategy planned for release in 2020 is ambitious and leads to a toxic-free environment as soon as possible**. Therefore deliver Council Conclusions that press the Commission to present an overarching and long term strategy based on more and urgent actions to **prevent pollution across sectors including circular economy and farm to fork**. Deliver **consistency across legislation** based on high level of protection. **Close regulatory gaps for chemical uses**, like in food contact materials, **strengthen legislation to prevent exposure**, in particular protecting **vulnerable groups and addressing endocrine disruptors**. **Speed up the phase out and substitution of chemicals of concern** by safe and sustainable alternatives while avoiding regrettable substitution by e.g. promoting restrictions of families of chemicals such as PFAS, phthalates, bisphenols;
- Call on the Commission to set concrete measures to **clean the circular economy** and avoid toxic recycling as well as develop a **public information system** to ensure full transparency on substances present in materials, articles, products and waste;
- Ensure that **democratic and environmental principles are fully applied and enforced in EU chemicals policy** (e.g. transparency in decision making, ‘no data, no market’, precautionary principle, polluter-pays principle and substitution principle) and is aligned with the **hierarchy of actions in risk management that prioritises exposure prevention, elimination and substitution over control measures**;
- **Support ratification by more countries of the Minamata Convention on Mercury** and ensure its full implementation in the EU.

¹ which incorporates the suggestions of the EEB provided to the [IED Roadmap evaluation](#).





8. Realise the circular economy promise for the environment, jobs and the economy

- Support the setting of an ambitious **CE 2.0 action plan**, in line with Council conclusions of October 2019, including a **resource use reduction headline target** and **waste prevention binding objectives** for municipal and commercial waste generation, addressing notably food waste, as well as plastic and microplastics waste;
- Push for the development of a comprehensive and extensive **product policy**, including ecodesign type requirements, **extended producer responsibility**, sustainable public & private procurement and the setting of reliable sustainable information schemes, to be immediately deployed on priority sectors: textiles, construction, furniture and batteries;
- Bridge further the circular economy with climate and low carbon policy by requiring the implementation of **systematic carbon footprinting for products and materials** placed on the EU market, starting with batteries and materials out of energy intensive industry, and promote a consumption-based approach for carbon emissions accounting that also covers products imported into the EU;
- Push for swift development and implementation of an **EU product information system** – potentially as a database of digital product factsheets- to track substances of concern and material contents of products, durability, reparability and circular performances, as well as the environmental profile of goods placed on the EU market;
- Push the EU to set **GPP** as the default approach for public authorities and corporate social responsibility with an associated monitoring system and ensure a more effective roll-out of Ecolabel across products and services, with an effective communication plan.

9. Make EU laws and regulations protect citizens' health, rights and the planet

- Ensure that the incoming Commission's proposal to amend the **Aarhus Regulation** is produced as soon as possible and fully addresses the **EU's non-compliance with the Aarhus Convention**;
- Engage with the Commission and the European Parliament on the reflection process for **strengthening the Rule of Law in the European Union**;
- Ensure that all discussions on innovation do not undermine one of the cornerstones of EU law which is the **precautionary principle**;
- **Corporate accountability and due diligence**: promote work on new legislation which would put in place due diligence requirements on EU businesses in a way that would oblige them to address and mitigate any potential human rights violations and environmental harm in their value chains;
- **Implementation and enforcement**: Support a revamp of the Environmental Implementation Review (EIR) that will prompt Member States to take urgent action on the priority areas identified through the EIR process.





10. Put wellbeing and social and environmental justice at the heart of EU policy

- Encourage policy and governance reform so that **wellbeing and sustainability take a central role in all policymaking**, e.g. in 'better regulation' processes and tools and in integrating wellbeing and SDGs into the European Semester;
- **Reform the European Semester to help it drive the social, environmental and economic transformation** in the long-term – and **integrate 2030 Agenda** and the **European Green Deal** at all levels (from indicators to priorities). It should also evolve to take on board the Council Conclusions on the "Economy of Wellbeing"² - to include an economy of wellbeing perspective horizontally in Union policies and to put people and their wellbeing at the centre of policy design. This will support the Treaties and the Charter of Fundamental Rights of the European Union;
- Increase the **consultation of participation of the European youth network** fighting for better and quicker climate and environmental actions so as to ensure better representation of the next generation's concerns and identify solutions to avoid inter-generational injustice.

² <https://data.consilium.europa.eu/doc/document/ST-13171-2019-INIT/en/pdf>

1. TRANSFORMATIVE AGENDAS FOR A JUST TRANSITION TO A SUSTAINABLE EUROPE

Council relevance: European Council; General Affairs; Foreign Affairs; Economic and Financial Affairs; Transport, Telecommunications and Energy; and Environment.

Given the need for a whole of government approach for the European Green Deal, this should be a regular item for the European Council, with specific initiatives tables across relevant councils.

1.1 The triple transformative agendas - European Green Deal (EGD), 8th Environmental Action Programme (8EAP) and the Agenda 2030 and SDGs

Commission President Ursula von der Leyen's priority to deliver a European Green Deal is a major opportunity to respond to the triple existential threats of climate breakdown, biodiversity loss and pollution, including risks from chemicals. The overarching communication was launched on 11 December 2019 and concrete measures will follow in 2020 and 2021, many during the Croatian presidency.

Implementing the Agenda 2030 and SDGs in Europe is a European Commission and Member State commitment for 2030. Yet the EU still lacks specific targets for the realisation of the SDGs and indicators, and an overarching sustainable Europe 2030 strategy and Implementation Plan to 2030 and beyond (despite Council Conclusions, EP and the Multi-Stakeholder Platform on SDG Implementation calls).

In addition, the 7th Environment Action Programme (7EAP), adopted by the European Parliament and the Council of the European Union in November 2013, is approaching its end (2020). Discussions are underway on developing the 8th Environment Action Programme³, a Commission proposal is expected to be launched during the Croatian presidency and run to 2030.

The decision as to the relationship between the 8EAP, the EGD and the implementation of Agenda 2030 and SDGs in Europe is critically important. This is not the time for incremental change, but transformative change and a just transition is needed to keep all Europeans with their diverse situations on board.

We therefore call upon the Croatian Presidency to:

- All three transformative agendas - the European Green Deal, the 8th Environment Action Programme, and an overarching Europe 2030 Strategy and Implementation Plan - are coherent, complementary, mutually supportive and ambitious;
- Encourage Council debate on mechanism for deeper integration of ethical considerations, social cohesion and solidarity, and commitment to a fully just transition. Integrate social measures in each of the three transformative agendas via the Just Transition Initiative, the MFF and other measures to help make the set a foundation for a new Social Contract for the Europe and hence can also support European identity and the European Project;
- Recognise in its Council Conclusions the importance of an ambitious and transformative 8EAP that runs from 2021 to 2030 with a mid-term review in 2025, that provides a framework for a systematic and just transformative change needed to protect people and planet. The 8EAP should embrace the need for transformative system change, for enhanced cohesion and accelerated implementation and enforcement, make links to digitalisation for people and planet, sustainable finance and an inclusion open cooperation across government and stakeholders.

³ For 4 October Council Conclusions: <https://www.consilium.europa.eu/media/40927/st12795-2019.pdf>

1.2 Make the Sustainable Development Goals drive the Future of Europe

The adoption in September 2015 of the Global 2030 Agenda for Sustainable Development (2030 Agenda) with its 17 Sustainable Development Goals (SDGs) was a major milestone on the path to international recognition of the need for a more sustainable economic system and lifestyles. While the EC's 'Reflection paper' was published in January 2019, while the SDGs are mentioned in all Mission Letters and while the UvdL has promised that SDGs will be

integrated into the European Semester, a stronger role is needed for the SDGs. The UN has declared 2020-2030 the Decade of Action and Delivery – while the EU is still missing a Sustainable Europe 2030 strategy with clear targets and timelines and an implementation plan for the SDGs five years after the adoption of the 2030 Agenda.

We therefore call upon the Croatian Presidency to:

- Encourage the new Commission President and the new Commission to make sustainable development the overarching objective of all EU policies and programmes including the EGD;
 - Request the new Commission to quickly develop a Sustainable Europe 2030 Strategy and set out an implementation plan with clear European targets for all SDGs, timelines, objectives and concrete measures to implement the 2030 Agenda in all EU policies as demanded by the Council in June 2017, October 2018 and December 2019;
 - Encourage the new Commission to develop a robust, transparent and participatory monitoring and review system in close consultation with civil society including a full SDG monitoring report similar to a Voluntary National Review (VNR) covering all policies, internal and external, as well as spill over effects of European domestic policies; this should include a review of the EU's SDG indicators and weaknesses of the existing data set - all in line with the Council Conclusions of December 2019;
 - Ensure that the Multi-Stakeholder Platform on sustainable development will be reconvened by the new Commission with a clearer, stronger and more political mandate to allow for meaningful multi-sectoral civil society participation in the development of a Sustainable Europe 2030 strategy and the EU's SDG monitoring and review.
- Beyond the MSP, ensure an active process for civil society participation at EU level with all relevant stakeholders to prepare in consultation with the Commission those concrete implementation and review mechanisms, with capacity building actions and funding possibilities, and support and seek exchange with the Multi Stakeholder Platform on the Implementation of the SDGs;
- Support the effective and inclusive modalities for civil society participation in the global sustainable development processes, in all cases with full respect for the principle of self-organisation, in particular towards the July HLPF;
 - Seek to guarantee coherence between all European policies and strategies and sustainable development objectives, inter alia, by strengthening governance for sustainable development and by the role for sustainability considerations in the Commission's internal impact assessment process, the better regulation process and the European Semester;
 - Encourage discussion on the role of wellbeing in the European Semester and explore replacing a GDP growth focus with a wellbeing focus, taking inspiration from developments in New Zealand and other governments;
 - Encourage the replacement of the Growth and Stability Pact with a Wellbeing and Stability Pact.

1.3 An EU Budget (MFF) for transformative change

On 2 May 2018, the European Commission released its communication on the Multiannual Financial Framework 2021-2027 (MFF). The last EU Presidency, [Finland](#), presented its MFF "[Negotiating Box](#)" on 5 December, that input into the 10 December General Affairs Council, and 12-13 December European Council. It proposed an overall budget of 1087 billion euros, representing 1.07% of EU GNI.

The European Council underlined that "[All relevant EU legislation and policies need to be consistent with, and contribute to, the fulfilment of the climate neutrality objective while respecting a level playing field](#)" - but didn't

get agreement on the overall budget and allocations across priority areas. The Budget will therefore be an important Croatian presidency responsibility.

While there are positive elements in the MFF proposal in its current form, it will unfortunately not drive down GHG emissions sufficiently, do enough to halt biodiversity loss or water quality degradation. Indeed, there is a very real risk of continued ongoing pressure on both biodiversity and water quality through the CAP proposals. The EU budget risks being a missed opportunity for EU added-value.

We therefore call upon the Croatian Presidency to:

- Drive ongoing MFF negotiations to promote an EU budget for sustainability, EU added-value and catalysing change: ensure that the MFF is coherent with the Treaty Objectives and wider EU commitments - on the Paris Agreement, on the SDGs, on halting biodiversity loss and protecting the oceans. At least 1% of the budget should be allocated to LIFE+ and EUR 15bn per year should be ring-fenced for the implementation of Natura 2000. The climate mainstreaming goal should be increased from 25% to at least 40% of the whole EU Budget and there should be no spending on projects that run counter the Paris Climate Agreement;
- Ensure that the CAP budget can be justified to the eye of the civil society and make all spending conditional to the respect for environmental legislations. The CAP budget must be convincingly compatible with climate, biodiversity and other environmental objectives;
- Transform the European Maritime and Fisheries Fund into a true ocean conservation fund by excluding any subsidies that aggravate overfishing. Instead, ring-fence funds for the ecological restoration of our seas;
- Encourage green finance and environmental fiscal reform, including carbon pricing, and ensure transparency on subsidies in the EU and encourage the removal of harmful subsidies (e.g. in the fisheries sector, agriculture and cohesion funding on transport; support for fossil fuel related infrastructures). Pricing that reflects the user pays and polluter pays principles should be encouraged. There should be systematic use of green public procurement (GPP) where EU funding is concerned and wider uptake of GPP more generally. Progress on green finance to support and integrate sustainability concerns and help meet sustainability objectives should be encouraged. And new discussions should be launched on how to encourage EU-wide use of carbon taxation;
- Promote the use of the flexibility mechanism in the Growth and Stability Pact to allow climate finance coherent with the green taxonomy to be exempt from the 3% GDP debt rule.

See also EEB's recent report [An EU Budget to address the Climate Emergency](#) and associated [webpage](#).

1.4 Accession and Neighbourhood policies, including Balkans

The countries in Eastern and South-Eastern Europe that aspire to one day join the European Union need to bring their environmental policies close to those of the EU. North Macedonia, Montenegro, Albania, Serbia and Turkey, the official candidate countries, Bosnia and Herzegovina and Kosovo as potential candidates as well as the countries

covered by the European Neighbourhood and Partnership Instrument (ENPI) still need to overcome a wide range of environmental challenges such as air and water pollution, land degradation, waste management and the loss of biodiversity before joining the EU.

We therefore call upon the Croatian Presidency to:

- Ensure that EU environmental rules and standards are fully integrated in discussions and funding linked to the Balkans, the accession process and cooperation between the EU and the European Neighbourhood and Partnership Instrument (ENPI) countries;
- Ensure a strong strategy behind the announced Green Balkans Roadmap as part of the Green Deal including consultation with civil society in the region;
- Encourage, through the MFF discussion and elsewhere, new funding lines for civil society to step up capacity building, awareness raising and advocacy work in the region to make the Green Balkans Roadmap a success;
- Recognize the negative impacts of hydropower on biodiversity and discourage the construction of new dams using diplomacy, policies and funding, and protect and restore free flowing rivers – with a particular focus on the EU six Eastern partnership countries where the risks are particularly significant.



1.5 Trade

During Croatian presidency, the European Council will continue to discuss international trade policy. It will start trade negotiations with the United Kingdom if Brexit goes ahead and the EU-Mercosur deal will be high on the agenda. The effects of existing trade arrangements are already having a big impact on the global environment, as exemplified by the large EU role in the fires raging in the Amazon rainforest. Nowhere is the inadequate treatment on sustainability more evident than in the EU-Mercosur Free Trade Agreement (“FTA”). The sustainability agenda and environmental and social requirements in recent agreements and negotiations have been a secondary footnote, or “window-dressing”, to the main agenda of intensifying trade flows.

The EU should not enter into trade agreements that contain investor-state arbitration mechanisms such as ISDS or ICS which fail to address the concerns of citizens and invariably will undermine the efficacy in practice of EU law and the ambition of its policies and laws. It needs to ensure that sustainability can be implemented and enforced in all its trade agreements. The EU should renegotiate, or if that fails, leave all trade deals with such mechanisms in them. A chapter on climate, environment and labour standards does not stop the harm to people and planet that comes from secretive courts that allow investors to circumvent our legal system. Investor-state tribunals have ordered taxpayers to

compensate foreign corporations with billions of dollars as recent examples from The Netherlands and Sweden have shown. The actual results of these mechanisms are a real “chilling” effect. As things stand, leaders in member states are handcuffed when it comes to stopping the companies that are responsible for the emissions that the EU wants to reduce. Unchaining EU leaders is a precondition for a climate policy that would finally be able to do what the science is saying is needed: a much faster decarbonisation. When negotiations begin in earnest on the future relationship with the UK, the risk of the EU-27’s remarkable show of unity being fractured is likely to increase. Thus, the importance of the EU maintaining a strong line on this cannot be overstated.

The Energy Charter Treaty is incompatible with the implementation of the Paris Climate Agreement, just transition policies developed together with workers and their unions, and other necessary public policy measures. The ECT has been – and will increasingly be – used by fossil fuel and nuclear energy companies to challenge government decisions to phase out such energies. It can be an obstacle to prioritising investment in renewable energy and energy efficiency, to bringing energy production under public control, and to taking measures to end energy poverty. The ECT in its current form is outdated and a threat to public interest.



We therefore call upon the Croatian Presidency to:

- Ensure that a truly sustainable approach to trade informs all current and future EU trade negotiations, and that this is seen as the priority deliverable from all future trade agreements;
- Ensure that trade agreements negotiated or adopted during the Presidency do not include investment arbitration procedures that create risks of deregulation or “regulatory chill”, notwithstanding the Court of Justice’s opinion in case A-1/17;
- Ensure that trade agreements include enforceable clauses on commitment to the Paris Agreement, non-regression on environmental and environmental democracy matters, and ‘do not harm’ principles in Trade and Sustainable Development chapters, with an enforcement mechanism which is accessible to parties, civil society and citizens, and which has real teeth;
- Initiate an alternative trade mandate based on extensive civil society consultations, the EU’s commitment to sustainable development and the increased awareness of the unsustainable nature of consumption and the planet’s finite resources and limited ability to cope with the impacts of human activities and consumption.

More specifically in relation to the EU–Mercosur FTA, the Croatian Presidency should:

- Support the halt of negotiations and require significant further negotiation prior to any signing of this deal, in order to:
- Ensure credible transparent guarantees that no Brazilian products sold in the EU are leading to deforestation, land grabbing of native lands or human rights violations, and demand confirmation, with material evidence, that the Brazilian government will fulfil its commitments as part of the Paris Agreement on Climate Change;
- That no further de-forestation in the Mercosur region will occur consequent on trade flows facilitated by the FTA;
- Require the commitment of all the Mercosur countries to ratify the Escazú Agreement within 3 years of the signing of any Mercosur FTA with the EU, to ensure some equivalence with environmental rights protected under the Aarhus Convention.

More specifically in relation to the ECT, the Croatian Presidency should:

- Include as a condition for entering negotiations to modernise the ECT the removal of provisions that protect fossil fuels;
- Request the removal of investor-state dispute settlement provisions from the agreement.

2. THE EUROPEAN PARLIAMENT DECLARED A CLIMATE EMERGENCY: ACT ACCORDINGLY

Council relevance: European Council; General Affairs Council; Transport, Telecommunications and Energy Council; and the Environment Council

2.1 Towards a strong long-term climate policy

At the end of the Finnish presidency, the European Parliament voted on a Climate Emergency, the European Council conclusions led to an agreement on climate neutrality by 2050 for the whole of Europe, and the COP 25 in Madrid reiterated the importance of the 1.5 to 2 degree global warming limited and recognised the importance of oceans. The EU commitments were constructive steps forward, while the CBD COP 25 was a “de minimus” conclusion that did not rise to the scale of the climate crisis or calls from youth protests and evidence from science. At both EU and global levels the broad scale declarations need to be followed up by concrete actions and further diplomacy.

Several important windows of opportunity remain for the Croatian presidency, notably follow up to the Green Deal communication and the UNFCCC COP26 preparation meeting in Bonn 1 to 11 June 2020. Croatian diplomacy to help realise progress on strengthening EU commitments, strategies, targets, regulations, climate finance and fiscal instruments will be essential. This will help the EU lead by example in global processes (UNFCCC) and helping set the scene for success at UNFCCC COP in Glasgow in November 2020.

We therefore call upon the Croatian Presidency to:

- Secure endorsement of a European Climate Law that commits to net-zero greenhouse gas by 2050 at latest and preferably by 2040, complemented by a European Climate Pact to get a whole of EU approach and just transition;
 - Promote ambition in European climate and energy policies, recognising that to stay within 1.5 degrees EU GHG emission reductions of at least 65% by 2030 are needed, that the EU needs to be net-zero by 2040, with net-negative emissions thereafter;
 - Ensure an substantial increase of the Nationally Determined Contributions (NDC): Prioritise efforts to close the gap between the EU's 2030 climate and energy targets (energy efficiency and renewables) and the draft national contributions and to improve the draft national energy and climate plans (NECPs);
 - Encourage an industrialisation strategy that integrates circular economy measures to support the transition to a net-zero greenhouse gas economy by 2050; use performance-based standards to its fullest extend i.e. the EU BREFs
- to address GHG as well overhaul of the Industrial Emissions Directive (broaden coverage to include: cattle given their role in methane and ammonia productions; data centres given energy demand);
 - Promote a zero -carbon construction sector, calling for an accelerated 3% renovation rate, full decarbonization of heat by 2030 and uptake of carbon neutral construction products;
 - Negotiate for a truly Paris-compatible MFF with robust measurement methods for carbon saving allocations integrated into the MFF and remaining legislative acts being negotiated (CAP);
 - Encourage due ambition for the Energy Tax Directive reform (qualified majority voting, carbon reduction signals, removing exemptions for aviation and maritime fuels) and associated carbon border tax to facilitate progress with GHG mitigating incentives, complemented by subsidy reform, EU-ETS reform (increase auctions, withdrawal of free allowance, floor prices), Paris compatible State Aid Guidelines and Action Plan on Green Financing.

2.2 Towards energy policies that drive climate action

The role of energy in climate action is essential and the Croatian Presidency needs to speed up the transition to renewable energy production, there is a need to move towards a carbon neutral electricity and gas grid to decarbonize heating and cooling and sharply decrease energy imports, to improve energy efficiency in products and processes.

Achieving the EU's climate commitments requires an all-hands-on-deck-approach fully combining the efforts on energy efficiency and renewable energy with the circular economy agenda and fully recognizing the CO₂ savings potential linked to saving on material resources and the embedded CO₂.

The issue of energy infrastructures and the financial and regulatory framework is essential. The Connecting Europe Facility, as part of the Multiannual-Financial Framework, is one key instrument. The partial provisional agreement still allows public money to be spent on fossil fuel projects which are one of main reasons for the risk of catastrophic climate

change. Respecting the climate commitments requires avoiding any continued lock-in into fossil fuel infrastructure and to ensure that no more EU public money is wasted in unsustainable projects. The upcoming Ten Years Network Development Plan (TYNDP) should be Paris-Agreement compatible and reflect net-zero emissions by 2040.

The Ecodesign and Energy Labelling framework are essential elements of the EU's climate and energy policy, already delivering considerable savings in energy consumption (roughly 500 EUR annually by 2020 per household). However, energy performance requirements should be made more stringent and the governance of the measures must be improved so they can deliver their full potential. The Methodology for Ecodesign of Energy-related products (MEErP), which underpins these policies, so far fails to comprehensively consider the benefits from circular economy provisions, such as on repairability and recyclability, even so these can deliver significant emissions savings due to the embedded energy in products.

We therefore call upon the Croatian Presidency to:

- **Promote ambition with respect to 2030 Energy targets - an increase of the energy efficiency target to at least 40% with at least 45% of energy sourced from sustainable renewable energy by 2030 are also essential to create a realistic pathway to EU carbon neutrality;**
- **Embrace the “energy efficiency first” principle in implementation to ensure cost effective solutions, which inter alia, should also support the added value from use of EU funding;**
- **Investigate the decision making process with regards Ecodesign and Energy Labelling measures so as to reinforce its effectiveness and help make the policy deliver in a timely manner on its full potential: Support the recommendations of the European Parliament in their own initiative report on Ecodesign implementation (May 2018);**
- **Review the Ten Years Network Development Plan (TYNDP) for electricity and gas grids and ensure that this be Paris-Agreement compatible, be based on assumptions that deliver emissions reductions, and reflect net-zero emissions by 2040 to meet the 1.5 degree commitment. Key areas of concern are energy efficiency, overall emissions, assumptions on biomass use (land take questions, risks of biodiversity loss), on renewable/blue hydrogen (lack of sufficient capacity to generate renewable gas) , carbon capture and storage (CCS) and carbon capture and use (CCU) assumptions (leakage risks, geographic availability, costs).**

2.3 Taxation and environmental fiscal reform

There are increasing calls for a system of fair and efficient taxation in the EU – within the European Green Deal, at national levels, and by the research community - underlining the need for ecological tax reform to put more burdens on resources and pollution and less on labour. There is a growing recognition that without addressing pricing and subsidies the economy will not support sustainability needs.

A fair and efficient taxation system is one where, inter alia, there are no harmful subsidies and where pricing reflects, inter alia, environmental externalities (such as climate change, air pollution, marine litter polluting the oceans) as well as resource costs (such as water, materials) and service provision (e.g. waste management costs), while also taking into account affordability and distributional issues.

We therefore call upon the Croatian Presidency to:

support the commitments made in the European Green Deal and:

- Promote environmental fiscal reform as a central plank of economic policy – fully reflecting environmental, economic and social concerns in policy design. Encourage a shift towards qualified majority voting (QMV) on energy taxation and other environmental pricing instruments;
- Recognise the importance of socially progressive taxes: tax systems should be designed with a sufficient redistributive effect (in the design and/or use of revenues) to protect disadvantaged groups and reduce the risk of social protests similar to the gilets jaunes;
- Prioritise progress on the excise tax reform discussions so that it includes carbon taxes across the EU and border tax adjustments: aim for an EU carbon tax (via the Energy Tax Directive reform), aim to move to Qualified Majority Voting for this carbon tax (using the “passerelle” clause), or use enhanced cooperation mechanism for coalition of the willing nations. Target rate of €100 per tonne of CO₂ by 2030 to incentivise transformative change, with ramping up of rates (€50/tC by 2025), revenue recycling, and measures for a just transition;
- Remove the Excise Tax exemptions for kerosene for shipping and aviation: remove the tax loopholes to ensure these sectors pay a fair price for fuel;
- Continue the reform of the EU-ETS: reduce the share of free auctions to zero over time; pursue greater auctioning (committing to 100% auctioning, and encourage targeting revenue uses for Paris compatible funding); tighten the allocations to be in line with the higher ambitions, by withdrawing allocations for future periods (i.e. faster than the planned withdrawal rate of 2.2% per year from 2021), and develop a floor pricing system to protect the price incentives from too much variation, and raise that price over time;
- Promote the systematic use of green public procurement (GPP) in the use of EU funding and wider uptake of GPP more generally;
- Encourage transparent reporting on subsidies and encourage the removal of harmful subsidies (e.g. in the fisheries sector, agriculture and cohesion funding on transport). Launch an open method of coordination process to reduce national harmful subsidies, complemented by “harmful subsidies” reform at EU level - e.g. within MFF, remove excise tax exemptions for aviation, fisheries, agriculture;
- Promote the reform of the State Aid guidelines such that they rule out environmentally harmful subsidies and facilitate climate finance.

3. RECOGNISE THE DRAMATIC LOSS OF BIODIVERSITY AND RESPOND TO THIS EXISTENTIAL CRISIS

Council relevance: The Environment Council and the Agriculture and Fisheries Council

3.1 A transformative Biodiversity Strategy to 2030 and better implementation, underpinning EU leadership.

The Croatian Presidency needs to make biodiversity, ecosystem protection and restoration a top priority during the 6 months of its Presidency. The startling findings of the IPBES global assessment on biodiversity and ecosystem services as well as recent EEA's State of the Environment report have highlighted the scale of transformation of our economy and society that are needed urgently in order to maintain and our life support systems and halt biodiversity loss. One million species are currently threatened with extinction, and the health of the ecosystems on which we all depend is deteriorating more rapidly than ever. Biodiversity loss is one of the most critical environmental threats alongside climate change and the two are inextricably

linked. Protecting and restoring ecosystems is essential to stop both.

Much of the failure to halt biodiversity loss to-date stems from inadequate implementation of the existing EU nature, water and marine legislation as well as failure to mainstream biodiversity into EU sectoral policies such as on agriculture or fisheries. Another important reason is lack of resources allocated to preserving and restoring biodiversity and ecosystems and continuation of the perverse subsidies. The EU needs to redouble efforts to deliver against previously agreed targets and commitments by 2020 and give the policy the political priority and funding it deserves. Failure to do so undermines our own survival.

We therefore call upon the Croatian Presidency to:

- Lead the preparation of the ambitious EU position on the global biodiversity policy framework post 2020 to be adopted at the CBD COP 15 in Kunming in October 2020 including proposals for strong implementation and accountability mechanisms;
- Work closely with the European Commission in adopting a transformative EU Biodiversity Strategy to 2030 as part of the European Green Deal, including legally binding restoration targets for ecosystems important for biodiversity and climate such as wetlands, peatlands, biodiversity rich grasslands, marine ecosystems and free-flowing rivers. Ambitious action at home will allow the EU to demonstrate credible leadership on biodiversity in the global negotiations for the post-2020 biodiversity framework;
- Step up implementation of the EU's nature, water and marine legislation as well as improve their coherence with other EU policies and mobilise sufficient funding for reaching their objectives.



3.2 Achieve the goals of the **Marine Directive**, end overfishing and reduce the impacts of fisheries on marine ecosystems

The sea is home to a significant proportion of Earth's biodiversity. It provides us with food, resources and well-being. As the blue lung of our planet, the ocean is a vital climate regulator. However, these factors also mean that it is the location of numerous human activities, putting unprecedented and unsustainable pressure on the marine environment and dramatically impacting marine biodiversity and ocean resilience. As the world's biggest maritime territory, and with almost half of its population living by the sea, the EU is compelled to set rules protecting marine biodiversity and regulating the activities that take place at sea or which impact the sea.

Since 2008, the EU has had one of the most advanced laws in the world to protect the marine environment, the Marine Strategy Framework Directive, which requires Member States to take all necessary measures to achieve Good Environmental Status of EU seas by 2020. In addition, eliminating overfishing by 2020 at the latest is the overarching objective of the EU Common Fisheries Policy (CFP), which requires EU countries to set fishing limits (Total Allowable Catch, or TACs) in order to restore or maintain fish populations above sustainable levels. We now know that neither objective will be reached, despite the growing recognition of the vital role of a health and biodiverse ocean for the planet and climate change mitigation.

We therefore call upon the Croatian Presidency to:

- **Mobilise political support to get a commitment from all EU Member States to take the necessary measures to achieve the goals of the Marine Directive in 2020 or as soon as possible after 2020, in particular by phasing out plastic, chemical, agricultural and underwater noise pollution and by protecting vulnerable marine ecosystems in networks of well-managed Marine Protected Areas;**
- **Ensure that policy and legislative initiatives launched by the European Green Deal, including the Farm to Fork Strategy, fully consider the impacts on marine ecosystems of fisheries and aquaculture;**
- **Ensure that the impacts of fisheries on the marine environment are minimised. This includes:**
 - Ensuring that fisheries harmful subsidies, banned by the EU in 2004, are not reintroduced in the next European Maritime and Fisheries Fund in the ongoing trilogue negotiations;
 - Leading the development of an ambitious Council position on the revision of the Control Regulation to ensure full compliance of the fishing sector with fisheries and nature laws, requiring fully documented and transparent fisheries;
 - Securing an effective implementation of the landing obligation by ensuring that measures to avoid and reduce unwanted catches are implemented, including increased monitoring and control of fisheries activities;
- Ensuring that incidental catches of protected seabirds, marine mammals and reptiles are minimised through Multi-Annual Plans and Joint Recommendations under the Technical Measures Regulation;
- Encouraging France and Spain to appropriately respond to the deaths by bycatch of thousands of common dolphins in the Bay of Biscay starting with putting emergency measures in place between January and April 2020 to avoid breaking last winter's record of over 1,100 dolphin strandings.
- Ensuring effective long-term protection measures for the Eastern Baltic Cod in the amended Baltic Multi Annual Plan.
- **Ensure that Marine Protected Areas are effectively protected, and EU's nature and marine legislation fully implemented at sea, by encouraging all Member States to adopt fisheries management measures in their Marine Protected Areas, including by the use of the Article 11 CFP mechanism, and leading by example by starting the processes for Croatia.**

4. INITIATE A TRANSITION TOWARDS SUSTAINABLE FOOD AND AGRICULTURE

Council relevance: Environment Council; and Agriculture and Fisheries Council

In June 2018, the Commission published legal proposals for a new CAP which is based around a “new delivery model” and moving from compliance to “performance”. These proposals have been criticised by the European Court of Auditors, civil society, and the scientific community alike for increasing the flexibility given to Member States without the necessary safeguards to maintain a level-playing field and to deliver on the promised higher environmental and climate ambition.

Negotiations are still ongoing within the EU co-legislators; hence the Croatian Presidency will have the opportunity to finalise the Council position. To ensure the EU added value and public justification of the CAP, the Agriculture Council must strengthen the CAP’s governance, performance, and accountability framework, rather than continue to focus on simpler and more flexible rules which threaten the long-term legitimacy of the CAP.

Furthermore, in times of climate emergency and biodiversity collapse, the CAP must urgently start a transition towards

sustainable agriculture. This requires ambitious ringfencing of funds for environmental and climate measures, a strict baseline of basic good environmental practice, and the right environmental safeguards to stop harmful subsidies. A strong involvement of environmental authorities and stakeholders is also crucial, to ensure effective and coherent policy measures in the CAP. For the first time, in 2019 the Finnish Presidency invited environmental NGOs to the informal meeting of Agricultural Ministers. It is key that future Presidencies continue this constructive engagement, and also involve Environment Ministers in the discussions on the environmental and climate aspects of the CAP, akin to the process in the European Parliament.

Finally, the European Green Deal promises to change the way we produce, consume and trade. The upcoming Farm to Fork Strategy is a crucial opportunity to build a long-term vision for the future of the EU’s food and farming sector and start a transition towards sustainable food systems, with full involvement of civil society.

We therefore call upon the Croatian Presidency to:

- **Ensure that there is a comprehensive discussion of the CAP in both the Environment and Agriculture Council formations, with involvement of environmental stakeholders;**
- **Mobilise political support for a bold reform of the CAP which ends subsidies harmful to the environment and climate, enables a transition to sustainable agriculture, and strengthens Member States’ accountability in the new CAP;**
- **Work closely with the European Commission to develop a transformative Farm to Fork Strategy that drives a transition to sustainable food systems, including by setting legally-binding targets on all dimensions of sustainable food production and consumption;**
- **Provide platforms for an inclusive debate about the future of the EU’s food system and of food and agricultural policy;**
- **Initiate extensive discussion on how to address soil degradation in a legally binding framework at the EU level and urge the Commission to propose such a framework as soon as possible.**

5. SAFEGUARD FRESHWATER ECOSYSTEMS AND CLEAN WATER FOR ALL

Council relevance: Environment Council

With 60% of European rivers, lakes and coasts not meeting the standards of the EU Water Framework Directive (WFD) and freshwater biodiversity worldwide having declined by staggering 83% between 1970 and 2014⁴, freshwater ecosystems need to be a key priority for protection and restoration in the European Green Deal as well as through adequate implementation of the WFD.

The European Commission has recently finalised the 2 year evaluation of the WFD and related directives concluding that the directives are fit for purpose. The fact that the WFD's objectives have not been reached fully yet 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.

We therefore call upon the Croatian Presidency to:

- Lead the preparation of an ambitious response to the fitness check evaluation of the Water Framework Directive and related legislation, recognising that the WFD is fit-for-purpose and ensuring that the evaluation leads to improved implementation and enforcement of the WFD so that its objectives can be fully met by 2027;
- Improve policy coherence and integration of the objectives to protect and enhance the health of freshwater ecosystems into other sectoral policies notably in relation to agriculture, energy, industry, chemicals, and transport policies, to reduce pressures from those sectors (e.g. pesticides, nitrates, thermal pollution, hydromorphological alterations, over-abstraction);
- Work with the European Commission to develop a joined-up restoration agenda as part of the EU Biodiversity Strategy to 2030 to protect and restore free - flowing rivers and supporting nature-based solutions in the implementation of the Water Framework and Floods Directives to specifically address collapse in freshwater biodiversity;
- Recognize the negative impacts of hydropower on biodiversity and actively discourage the construction of new dams using diplomacy, policies and funding, and protect and restore free flowing rivers;
- Work with the European Commission to develop an ambitious Water Action Plan proposed in the European Green Deal that inter alia advances action to tackle pollution from substances of emerging concern (e.g. pharmaceuticals, microplastics) and ensures access to water via the implementation of the revised Drinking Water Directive and supported by MFF expenditure to improve public water supply and wastewater treatment.

⁴ according to the WWF Living Planet Index

6. RECOGNISE THE HEALTH IMPACTS OF AIR POLLUTION AND THE NEED FOR A CLEAN INDUSTRIAL POLICY

Council relevance: Environment Council; and Agriculture and Fisheries Council

6.1 Air Pollution

Air pollution causes around 400,000 premature deaths each year in the EU and contributes to cardio-vascular disease, impaired prenatal and early childhood development, mental health problems, obesity and childhood leukaemia. Air pollution also impacts Europe's nature and biodiversity through eutrophication, and agricultural yields and natural vegetation are damaged through ozone formation. The

EEA estimates that more than half of Europeans were exposed to concentrations exceeding the 2005 WHO air quality guidelines in 2015-2017. 74-81% of the population was exposed to concentrations exceeding the 2005 WHO guidelines for PM_{2.5}, particles which are most harmful to health.

We therefore call upon the Croatian Presidency to:

- Support the rapid implementation of existing EU Ambient Air Quality Directives, while improving transparency and information provision on the level of actions taken by Member States;
- Ensure an ambitious follow up to the Ambient Air Quality Directives fitness check by supporting the alignment of the EU air quality standards with the upcoming WHO guidelines (expected by 2020);
- Raise the political profile on the need to address harmful sources of air pollution such, inter alia, domestic heating, agriculture and transport, including shipping;
- Support the rapid implementation of the National Emission Ceilings Directive (also through enforcement actions) - 10 Member States did not finalise their National Air Pollution Control Programmes yet (deadline was 1 April 2019) - while supporting also the implementation of ambitious policy measures to reduce national emissions, which go beyond the minimum requirements established by the NEC Directive (such as the establishment of a reduction target for methane emissions together with the identifications of the supportive measures);
- Support and promote the revision of the Gothenburg Protocol in the framework of the UNECE Convention on Long-range Transboundary Air Pollution so black carbon, methane and mercury can be included;
- Ensure an ambitious CAP post 2020 which includes coherent, clear and measurable air quality objectives that effectively contributes to achieve WHO guidelines, so to reduce the sector's impact on air quality (ammonia and methane emissions in particular, but also primary PM through agricultural waste burning);
- Ensure for a balanced IED Evaluation and set criteria on the determination of BAT benchmarks, with improved links to promotion of compliance with Environmental Quality Standards and with an outcome-oriented focus (BAT Conclusions set to achieve best environmental and human health protection goals, based on integrated approach).
- Address shortcomings in IED implementation e.g. BAT derogation procedure, extension and update of EU safety net, policy coherence (implementation of EU-ETS/BAT standards), improved databases on industrial activities allowing transparent benchmarking and effective involvement of the public in decision-making.

6.2 Clean up industrial production

The Industrial Emissions Directive (IED) regulates the highest environmental impacting point sources in the EU from an integrated approach (addressing all environmental media). However, the focus so far has been based on an end of pipe emissions control approach for a limited set of pollutants but not on the basis of best technical achievable environmental performance levels that address all relevant impacts of a given industrial activity. It should be transformed to become

the new zero-pollution industrial production regulation. Emphasis should be on delivering on preventing pollution, in coherence with policies on the circular economy and decarbonization agenda. The EU BAT concept will have to be redesigned to provide the best ratio of environmental impact of an industrial activity for the provision of a given product or service.

We therefore call upon the Croatian Presidency to:

- **Ensure an ambitious overhaul of the EU Industrial Emissions Directive, following the currently on-going evaluation:**
 - Extend the scope to capture new major sources and issues e.g. intensive aquaculture, greenhouse gases;
 - Extend and update the EU 'safety net' requirements for preventing impacts from the most polluting industrial sectors (e.g. energy intensive industries in particular coal/lignite combustion);
 - Redefine and strengthen the uptake of BAT standards.
- **Lead the transition to a truly sustainable industry framework at EU level (via a reformed IED):**
 - Change the approach of how industrial activities are regulated by setting BAT for best ratio 'environmental impact of industrial activity' versus 'public good/service provided', in order to promote the industrial activity with the least environmental impact for the provision of a given product/service e.g. for energy production, water quality and supply, protein production, resource management;
 - Develop the necessary drivers so that the IED delivers on the wider circular economy and decarbonisation objectives.
- **Strengthening the provisions on public access to information and participation in the permitting procedure as well as access to justice;**
- **Overhaul of reporting requirements and strengthen enforcement (IED Registry / PRTR)**
 - Harmonisation of reporting formats for key IED documents e.g. IED Electronic Permit Template (EPT) allowing centralised reporting on relevant permit conditions;
 - Centralized and powerful database allowing better benchmarking of real-time environmental performance and better use of information for other purposes e.g. BREF reviews;
 - Establishment of the IED registry – revisited PRTR covering also diffuse emissions from products and enabling progress tracking towards SDG achievement, with proper consultation of end-users.



7. PROMOTE SAFE CHEMICALS AND A NON-TOXIC ENVIRONMENT

Council relevance: Environment Council

7.1 Protect the public from hazardous chemicals

The EU has already acknowledged that it will not meet the World Summit Sustainability Development 2020 goal of achieving the sound management of chemicals and waste. While significant progress has been made, major implementation gaps remain:

- The Union strategy for a non-toxic environment has not been delivered in 2018, as requested in the 7th Environment Action Programme by the EU institutions;
- The risks posed by the not-any-longer emerging issues such as nanomaterials and endocrine disruptors are still not adequately tackled;
- The EU has departed from bedrock democratic and environmental principles by not implementing transparency in decision making the polluters pay, precautionary and substitution principles as well as the 'no data, no market' principle and the shift of the burden of proof;
- The report on the assessment of chemical mixtures by June 2015; the update as appropriate the 1999 EU endocrine disruptors strategy or the fitness check evaluation of all chemical legislation except REACH (by 2017) have not being published;
- The Commission still didn't present legislative proposals of selecting polymers for registration under REACH regulation;
- The very high levels of non-compliance of the information submitted by companies under REACH is hampering the authorities' capacity to sufficiently protect health and the environment. Given the decline in the number of SVHC dossiers, achieving the EU objective to list all relevant SVHC in the REACH candidate list by 2020 is at risk. Moreover, the almost blanket authorisations being granted by the EU of continued use of substances of very high concern is disincentivising the use of safer alternatives⁵ and undermining the credibility of the process as reflected in the recent general court judgement annulling the decision to grant authorisation to a SVHC⁶;
- Despite the Commission's interface between chemical, product and waste legislation (ICPW)¹ acknowledged that the legislative framework of chemicals, products and waste is currently dissociated and needs a substantial reform, the future of this initiative is uncertain given the end of the current Commission's mandate and the progress on detoxifying our products, materials and environment has been so far too slow. Legacy chemicals circulated from virgin, to reused, to recycled and to recovered materials are present in waste streams without traceability on their presence, location or concentration.

⁵ ECHA: <https://echa.europa.eu/es/received-applications>

⁶ <https://eeb.org/court-of-justice-stop-selling-dangerous-paint-immediately/>

We therefore call upon the Croatian Presidency to:

- **Deliver council conclusions on the European Green Deal's communication and call on the Commission to make a regulatory proposal on a long term, overarching sustainable chemicals strategy based on more and urgent actions to prevent pollution across sectors, legislations and strategies, in particular circular economy and farm to fork.**
- **Request the Commission that the sustainable chemicals strategy truly and urgently strengthens the existing legislations in order to prevent exposure, speed up the phase out and substitution of chemicals of concern by safe and sustainable alternatives while avoiding regrettable substitution by e.g. promoting restrictions of families of chemicals such as PFAS, phthalates, and bisphenols;**
- **Demand a strategy that is:**
 - Protective towards human health and the environment, comprehensive, coherent and consistent with all other relevant policies;
 - Conducive to a toxic-free environment by 2020. Deliver Council Conclusions that press the Commission to present an overarching and long term strategy based on more and urgent actions to prevent pollution across sectors, legislations and strategies, in particular circular economy and farm to fork as well as strengthening existing legislation to prevent exposure, speed up the phase out and substitute chemicals of concern by safe and sustainable alternatives while avoiding regrettable substitution by e.g. promoting restrictions of families of chemicals such as PFAS, phthalates, and bisphenols;
 - Aligned with the hierarchy of Actions in Risk Management that prioritises prevention, elimination and substitution over control measures;
 - Enabling transparent, simple, streamlined and cost-efficient actions to ensure protection and compliance;
 - Updated to the latest scientific knowledge and addressing real life exposures, including daily exposures to mixtures of chemicals;
 - Provides that safety testing of chemicals are carried out by independent laboratories. The process is paid for by an industry-supplied fund that is managed by an independent public body such as ECHA;
- **Call on the European Commission to put in place a non-toxic environment strategy by 2020 under 7EAP and ensure non-toxic environment goal is broaden under 8EAP;**
- **Ensuring a public information system to enable full transparency on substances present in materials, articles, products and waste is in place;**
- **Propose economic instruments that stimulate substitution, innovation and clean production;**
- **Cleaning the circular economy by avoiding and eliminating toxic chemicals in the material cycles;**
- **Make specific proposal to ensure EU's democratic and environmental principles are implemented (e.g. transparency in decision making, 'no data, no market', precautionary principle, polluters' pay principle and substitution principle).**

7.2 Global Mercury Treaty and EU strategy

Mercury and its compounds are highly toxic, can damage the central nervous system and are particularly harmful to foetal development. Mercury 'travels' globally, bioaccumulates up through the food chain, especially in certain predatory fish, and presents a human exposure risk.

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 Treaty that were not already covered by existing EU law.

Following the entering into force of the Convention, three Conferences of the Parties (COP) took place in Geneva, in September 2017 and in November 2018 and 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.

A key priority is to ensure that countries ratify and implement the Convention as fast as possible. At the same time, enabling mercury reduction activities are needed, e.g. targeting mercury trade and supply, phasing out mercury use from products and processes, emissions' reduction, and the development and implementation of Artisanal and Small Scale Gold-Mining (ASGM) Action Plans.

We therefore call upon the Croatian Presidency to:

- Ensure rapid ratification of the Minamata Convention from remaining Member States;
- Implement the EU Mercury Regulation (including phasing out the use of mercury in dentistry) and other relevant legislation (e.g. removing the exemptions for mercury in lamps under the RoHS directive);
- Maintain EU leadership in relation to the Minamata Convention on Mercury by working towards strengthening of relevant Treaty provisions (e.g. review of Annex A and B), and in preparation for COP4;
- Ensure that the EU supports both financially and technically the existing international work on areas such as ASGM and phasing mercury added products.



8. REALISE THE CIRCULAR ECONOMY PROMISE FOR THE ENVIRONMENT, JOBS AND THE ECONOMY

Council relevance: Environment Council

The Circular Economy is an acknowledged strategic agenda for Europe. It drives new job creation with environmental savings and reduced dependency on material and fuel imports. Furthermore, it contributes to meeting climate change commitments, by complementing the CO2 savings expected by a decarbonised energy system through more efficient use of materials. It also helps frame sustainable bio-economy strategies at European and national levels by incorporating the key vision of resources productivity in the development of bio-based materials and products. The Croatian Presidency comes at a time where it will be crucial to ensure that the new EU institutions build on the work performed under the CE action plan of December 2015 and secure an ambitious EU work programme to progress further CE.

Textiles impacts on human health and environment and wasted potentials for circularity has now been clearly identified, it's time to take actions and consider an ambitious policy strategy for this sector, notably towards durability,

detoxification, reduced micro-fibres and increased recyclability. Batteries is a growing strategic market, and EU may be at risk of increased dependency if not adopting ambitious circular design and waste management policy for this product group, also essential for the decarbonization of EU. Building sector absorbs half of the material by weight used in EU every year, turning the building sector to circularity is of highest priority to save on resources and is also a key leverage to reduce embodied emissions in our materials and reach carbon neutrality by 2050.

Products placed on the EU market are at a decisive point in the materials chain. Allowing poorly designed products to be put on the market with no information on their chemical and critical material contents, or repair or recycle potentials hampers circularity. Furthermore, plastic pollution and overuse of plastic materials, associated with toxic substances or other additives, are the clear symbols and legacy of a linear, unsustainable economy.

We therefore call upon the Croatian Presidency to:

- **Make sure a Textile Strategy is initiated, pursuing and complementing the Plastic Strategy that shall continue to be implemented;**
 - **Push for the development of policies for the design and waste management of batteries;**
 - **Unleash further the circular and decarbonization potentials of buildings, notably by promoting the LEVELs framework as a more binding and systematic framework;**
 - **Actively support the EU level work on product policy: notably working towards a future swift implementation of an EU information system**
- **to track substances of concern and material contents of products, of the repair scoring system and targeting new sectors beyond energy related products to apply similar push and pull mechanisms as Ecodesign and Energy Labelling schemes;**
 - **Push the EU to design a new GPP and Ecolabel strategy: set GPP as the default approach for public authorities and Corporate Social Responsibility and ensure a more effective roll out of Ecolabel across products and services with effective communication plan.**

9. MAKE EU LAWS AND REGULATIONS PROTECT CITIZENS' HEALTH, RIGHTS AND THE PLANET

Council relevance: Environment Council; Competitiveness Council

9.1 The Aarhus Convention Access to Justice pillar

The Aarhus Convention establishes international legal obligations that aim to ensure transparency and accountability of public authorities in relation to environmental matters. As the EU itself, as well as all EU Member States, are Parties to the Convention, the EU adopted Regulation 1367/2006 on the application of the provisions of the Aarhus Convention to the EU institutions (known as the Aarhus Regulation).

The conditions under which NGOs have access to justice at the level of EU institutions was already the subject of a complaint to the Aarhus Convention Compliance Committee by ClientEarth in 2008. The 2015 CJEU ruling enabled the ACCC to bring its deliberations on the 2008 case to a conclusion: in March 2017, the Committee concluded that

the EU is not in compliance with the Convention. In the meantime, NGOs at Member State level also face difficulties in accessing national courts, and there are still diverging practice to accessing justice in environmental matters across the EU.

In October 2019 the Commission published a report and a supporting study on the necessary measures to ensure that NGOs are guaranteed access to justice and that the EU complies with its international commitments under the Aarhus Convention. The European Green Deal has also recognised the necessity to amend the Aarhus Regulation as well as to work with Member States to improve conditions to access national courts.

We therefore call upon the Croatian Presidency to:

- **Maintain pressure on the Commission to initiate the preparation of a legislative proposal for the revision of the Aarhus Regulation in early 2020, so as to guarantee access to justice and bring the EU into compliance with the Convention in advance of Aarhus MoP-7;**
- **Push for measures to apply and monitor the application of the Commission's interpretative guidance on access to justice in environmental matters so as to help Member States to more fully implement their commitments under the Aarhus Convention;**
- **Constructively engage with the Commission to improve access to the courts for NGOs and citizens at Member State level, including to call on the Commission to publish as soon as possible a new proposal for a Directive on Access to Justice, based on the guidelines in the Commission Communication ensuring that it reflects and incorporates the case law of the Court of Justice of the European Union.**

9.2 Reform “Better Regulation”

The principle of “better regulation” has become one of the cornerstones of EU governance, but while the notion of finding better and more efficient ways to regulate can hardly be objected to, the concept has too often been hijacked by those with a deregulatory agenda. The sensible objective of removing unnecessary administrative burdens has been conflated with the more partisan goal of alleviating regulatory burdens borne by business, even if those regulatory burdens are a necessary part of protecting essential rights: e.g. rights to health, to a clean environment, to decent working conditions.

Governmental bodies, including the EU institutions, need to act with the widest possible public interest in mind,

not only the short term interest of business. The risk of failing to do so is that we jeopardize what is perhaps the EU's greatest achievement: an impressive framework of laws and policies that reflect and protect our fundamental values. Increasingly there is a need to regulate at the supra-national level, to ensure effective corporate accountability and prevent irresponsible companies simply moving to jurisdictions where the laws are weakest and thereby externalizing their costs (e.g. to the environment, to future generations, to other countries). In the European Green Deal the Commission has committed to a green oath: ‘do not harm’. This oath should be the guiding principle for regulatory reform.

We therefore call upon the Croatian Presidency to:

- **Avert deregulatory threats to EU environmental legislation and policy:** Ensure that the health and environmental benefits of regulation are included in discussions on better regulation at the General Affairs, Competitiveness and Environmental Councils, so as to accelerate and implement regulation to protect citizens;
- **Encourage reflection of the reform of the tools and process of Better Regulation:** to ensure that the process and tools integrate fully environmental and social considerations, including longer term implications of choices, that non-linearities and tipping points are integrated to reflect non-linear risks of climate change and biodiversity loss, and put a greater emphasis on wellbeing rather than GDP growth;
- **Call for corporate accountability:** call on the Commission to support binding regulation on harmful cross-border business practices, including sanctions. Ensure that the EU plays a proactive and supportive role in the negotiations for a new UN Human Rights Convention on Corporate Accountability and Citizens rights, reflecting the principles and substantive obligations for the EU as set out in Article 3(7) of the Aarhus Convention for all parties. This instrument is essential to provide a meaningful and effective counterbalance to the extraordinary privileges and rights afforded to corporations in Investment Arbitration Systems, and in light of the extensive damage caused to the environment by such corporations in pursuit of profit. The basis on which the EU intends to withdraw from these negotiations has been unacceptably opaque. Support the push for binding regulation of corporate responsibility at EU level (Directive on Due Diligence);
- **Recognise the need to maintain and further develop strong laws that protect people and their environment and to prevent these being undermined through deregulatory pressures, such as pushes for innovation at all costs.**

9.3 Improve implementation, enforcement and the rule of law

Despite the high number of laws in the EU, as well as those stemming from international commitments, the environmental benefits from these often remain unseen given disparate and poor levels of implementation in the Member States. Poor implementation links both to lack of political prioritisation and in turn to the weak enforcement of laws, which in part reflects the lack of resources allocated to environmental monitoring and enforcement by national authorities.

To help Member States implement EU laws, the European Commission put in place the Environmental Implementation Review (EIR) in 2016 and the latest Communication and country reports were published in April 2019. The EIR is intended to foster better implementation through discussion aimed at solving systemic problems across the EU Member States, as well as offering a Peer-to-Peer tool to support capacity building and good practice dissemination.

While the EIR can help Member States ensure that EU laws are well-functioning, these dialogues should not replace the Commission's prerogative to take enforcement action against Member States when there is a clear case of non-compliance and breach with the Treaties.

When governments and authorities fail to implement the laws in place, it creates distrust in institutions and undermines legal certainty. For their own credibility, Member States need to take seriously the gaps in implementation that are identified and engage with affected communities and NGOs to redress environmental problems. The growing concern that NGOs are side-lined from the public debate, and even portrayed as opponents of the State, creates a hostile environment which is not only not conducive to constructive solutions to environmental problems, but in extreme cases undermines democratic values and the rule of law.

We therefore call upon the Croatian Presidency to:

support better implementation and build confidence in the rule of law, and specifically to:

- **Recall the Council, Commission and Parliament joint commitment to give top priority to improving implementation of the EU environment acquis at Member State level, which is also reflected in the European Green Deal;**
- **Fully engage with the Environmental Implementation Review (EIR) and contribute to strengthening the process, including through enhanced monitoring tools and wider stakeholder engagement;**
- **Emphasize the need for engaging appropriate bodies and structures at EU level, such as IMPEL, EJTN, ENPE, to improve capacity-building for authorities and enforcement of EU environmental law at national level;**
- **Remind all Member States and EU bodies of the paramount importance to respect fundamental freedoms, the need for transparency in decision-making and open dialogue within democracies to uphold the rule of law.**



10. WELLBEING, SOCIAL AND ENVIRONMENTAL JUSTICE

Council relevance: Environment Council

10.1 Promoting Wellbeing and Social Justice

An economy that works for people can only work if it puts “wellbeing” at its core and recognises the evidence on market failures (what cannot be addressed by the market), evidence of social injustice cases, and evidence on the limits of what green growth alone can achieve.

The Austrian and Finnish presidencies starting a dialogue and working towards a transition towards a well-being economy – via the Austrian Growth in Transition Initiative and Finnish presidency event: [Beyond growth – Indicators and Politics for People and Planet](#) 28-29 October 2019, as well as its [Council Conclusions on the Economy of Wellbeing and the Beyond Growth Conference in Helsinki](#)). There is a need for the continuation of this dialogue, and to recognise the importance of wellbeing as an indicator of societal prosperity and encourage increasing use of wellbeing indicators as complements and alternatives to GDP growth as a policy objective.

The Finnish presidency event brought together decision makers, statisticians, academia and civil society to develop Policy Recommendations for the EU: Wellbeing and

sustainability at the centre of policy and decision-making, including:

- 1) The European Union and Member States should adopt a policy orientation and governance approach that puts people and their wellbeing and the future of the planet at the centre of policy and decision-making.
- 2) The European Green Deal cannot be monitored and measured through a single simple indicator such as GDP, which is no longer fit for purpose. The EU should replace the Stability and Growth Pact with a Sustainability and Wellbeing Pact accompanied by a dashboard of key indicators measuring social and environmental sustainability and resilience.

In addition for there to be progress on social justice, the voices of the youth movement need to be heard so as to understand the concerns of the next generation who will inherit the Europe and planet that this generation leaves them. This inheritance does not have to become a negative legacy.

We therefore call upon the Croatian Presidency to:

- Encourage discussion on the role of wellbeing in the European Semester (see also next section) and explore replacing a GDP growth focus with a wellbeing focus, taking inspiration from developments in New Zealand;
- Encourage discussion of the need to replace the Growth and Stability Pact with a Wellbeing and Stability Pact;
- Increase the consultation of participation of the European youth network fighting for better and quicker climate and environmental actions so as to ensure better representation of the next generation's concerns and identify solutions to avoid inter-generational injustice.

10.2 Reforming the European Semester

In 2010, the European Commission launched the European Semester process to help coordinate economic policies across the EU, providing country-specific recommendations (CSRs) each year. 'Greening the European Semester' is part of this process, aiming to ensure that macro-economic policies are environmentally sustainable. Past CSRs have focused on, for example, improving economic signals through

environmental tax reform and reforming environmentally harmful subsidies, as well as recommendations to encourage resource efficiency and a transition to a circular economy. The process has received new political attention in the European Green Deal, with a promise to integrate the SDGs into the Semester.

We therefore call upon the Croatian Presidency to:

- Reiterate and increase the political commitment to the Greening of the European Semester process and encourage measures to improve economic signals to enable the transition to a resource efficient, inclusive, circular economy that supports the sustainable development goals. Positive practice in transparently documenting and reforming environmentally harmful subsidies should be encouraged. Similarly, continued efforts should be made to encourage wider environmental fiscal reform, supporting a move away from labour taxation towards taxation on natural resources, pollution and polluting products. Good practice in green public procurement should be rolled out across the EU. CSRs, peer-to-peer collaboration and capacity building to help support the institutional and stakeholder engagement necessary to achieve change are each needed;
- Acknowledge the importance of the interactions of the environment with national economic and sectoral policies and priorities. This supports good governance and facilitates implementation. Targeted country specific recommendations should be made – for example to underline the importance of nature-based solutions for national socio-economic priorities, such as rural viability through agri-ecology, local products and sustainable tourism, employment and ecosystem-based approaches to fisheries management, health benefits from access to Natura 2000 sites and green infrastructure;
- Encourage that the Semester process builds in public interests and engages with civil society organisations to ensure that citizens' voices are heard. This is important both for the legitimacy of the process, for identifying priority areas of focus, and developing the buy-in for implementation;
- Recognise the importance of wellbeing as an indicator of societal prosperity and encourage increasing use of wellbeing indicators as complements and alternatives to GDP growth as a policy objective;
- Help push for the European Green Deal promises to be reflected in the European Semester reform – firstly through the full integration of SDGs into the European Semester process and documents. And secondly, recognising the shift in narrative from GDP growth and environment being in opposition to one, embraced in the Green Deal, of synergies between environment and growth. Progress on SDGs, on European Green Deal and the state of the environmental should have a more central place in the European Semester. This will help make it more fit for purpose as a major guiding tool and interface between the Commission and Member States in joint efforts to realise the European Green Deal.



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The EEB and its members welcome continued engagement and cooperation with the Croatian Presidency.

We also develop a paper before each Trio Presidency. The 2019-2020 paper, addressed to the Romanian, Finnish and Croatian Presidencies, can be read [here](#).

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