EEB's reply to public consultation on Climate Law

The EEB welcomes the upcoming adoption of the initiative on Climate Law, which will enshrine the commitment to making Europe the first carbon-neutral continent by 2050. The overarching legislative framework will have to put European economy on a path towards a systematic and deeply transformative change to address the existential threats of climate change, biodiversity loss and other negative environmental impacts. There is not much time left to stop increasing global temperatures and impacting on our environmental capital to a point of no return, which will be incompatible with our very existence on Earth. Europe has a unique opportunity over the next five years to undertake that legislative effort that will be conducive to climate neutrality and zero pollution ambition as soon as possible. Most policy, financial and social instruments are already in place and need to be mainstreamed across all relevant areas and effectively enforced by the Member States. However, a strengthening of the overall climate and environmental ambition, together with additional targeted policy measures in a coherent framework, are needed to accelerate the transition of the way in which we produce and consume in Europe.

Our key messages

- The EEB calls for Climate Law to respond to scientific evidence and be as ambitious as the environmental threat is serious today.
- Europe must become a carbon neutral economy by 2040 and a zero-pollution economy by 2050.
- The EU's 2030 greenhouse gas emissions reduction target must be raised to at least 65%.
- The EU's 2030 renewable energy target must be raised to at least 45% and the energy efficiency target to at least 40%.
- Carbon price must be set at least at €100/ton CO2 before 2030.
- Decarbonisation of energy, industry, transport, building, agriculture must have clear and ambitious carbon neutrality compatible targets.
- Climate targets must not compromise other environmental priority goals, such as biodiversity protection - particular care is needed as regards biomass development, and afforestation.
- Climate Law should recognise the importance of biodiversity, the management of protected areas and restoration of ecosystems in contributing to climate mitigation and adaptation.
- All financial support (EU, national and private finance) need to be aligned with the carbon-neutrality objective.

Our policy recommendations

- **Increase the EU's emissions reduction target to 65% by 2030 and advance target date of reaching carbon neutrality to 2040.** The target will have to be achieved through a mix of policy measures, such as reforming the Emissions Trading System, increasing the renewable energy and energy efficiency

targets, tightening Best Available Techniques (BAT) standards under the Industrial Emissions Directive, setting clear targets for material and resource use.

- **Revise the EU ETS Directive to set a higher annual linear reduction factor** accompanied by an increased auctioning of allowances leading to phase out of free allowances, a higher rate of cancellation of allowances through the Market Stability Reserve and the setting of a carbon price floor. A carbon border adjustment (CBA), should be considered as replacing free allowances to industrial sectors to safeguard their competitiveness at global level, address carbon emissions embodied in imports and ensure that European economy is on the right track towards a faster industry decarbonisation. "Carbon dumping" should be avoided by ensuring that non-EU countries abide by European environmental standards. All these measures need to be in the same basket to provide the economy with the right price signal to reduce emissions at a pace compatible with the urgency to tackle climate change.
- **Revise the Renewable Energy Directive to increase the 2030 target to at least 45% for the promotion of renewable energy across the economy (with sector-specific policies for industry, private households, transport).** Renewable energy is a low hanging fruit, given its dramatic recent cost reduction and increasing grid parity. However, there is still a large untapped potential for higher penetration of renewable energy sources (RES) across the economy, while financial tools are already in place under different forms to make it possible for the power sector to become fully renewable at the latest by 2040. Moreover, energy import dependency can be reduced through renewables and circular economy with benefits for resource efficiency, air quality, jobs. A decision tree and sustainability criteria regarding biomass use (including solid, liquid and gaseous) as well as sustainable deployment potential must be established[1].
- **Revise the Energy Efficiency Directive to increase the 2030 target to at least 40% by accelerating building renovation** (e.g. by factor 3 in order to ensure climate-proof home for all Europeans by 2050) and making sure that national legislation (e.g. minimum renovation standards, dedicated decarbonisation BAT standards) is enforced and all available financial tools are used to that purpose. The Energy Performance of Building Directive has established a clear target for Member States to set out long-term strategies, as part of their NECPs, to renovate their national stock of residential and non-residential buildings, both public and private, into a highly energy efficient and decarbonised building stock by 2050, facilitating the cost-effective transformation of existing buildings into nearly zero-energy buildings. Building codes and renovation shall adopt the full decarbonisation perspective and systematically combine the potential savings on operational energy use and on embedded energy and emissions in the construction materials, so to maximise the total carbon savings for each renovation undertaking. To this purpose, a specific target and report on embodied emissions shall be associated to a target and report on operational energy use.
- **Make best use of Ecodesign and Energy Labelling policy that have already saved 7% of our total GHG emissions by 2020 and have the potential to deliver much more by 2030.** This should notably be considered to unleash the potentials of the ongoing revision of heating products, representing 80% of the energy consumption of the building sector, 75% of which today is supplied by fossil fuel operated appliances. A clear signal that inefficient electric and fossil fuel operated appliances should be phased out by 2030 would provide the necessary visibility for the concerned industry to adapt and change the product portfolio offered on the EU market. It would also create a new competition field for alternatives renewable energy, helping decrease their price through market exposure and economy of scale. This is

[1] See notably EEB position paper on Burnable Carbon http://eeb.org/publications/65/biofuels/90397/position-paper-on-burnable-carbon.pdf

a huge opportunity not to be missed, as any heating appliance operated with fossil fuel placed on the EU market after 2030 will certainly hamper the carbon neutrality goal, due to long lifetime and associated lock in effect.

- **Strengthen source policy measures to achieve the zero-pollution economy and coherent pollution prevention standards for EU's largest sources, inter alia, through:**
    - Best technical feasibility-based energy efficiency standards (improved BAT) should be made binding and BAT standards on decarbonisation should be set through a reformed Industrial Emissions Directive (IED).
    - Tighten the IED EU safety net requirement to deliver an EU coal phase out by 2030.
    - Introduce a GHG Performance Standard (EPS)/Emission Performance Factor (EPF) acting as a BAT performance-based multiplication factor to be applied to the purchasing of EUAs, thereby ensuring that BAT based performance standards work hand in hand with market-based instruments (EU-ETS).
    - Dedicated decarbonisation and GHG mitigation provisions for Energy Intensive Industries, such as renewables based Electric Arc furnace route for secondary metals, green hydrogen-based iron and steel making, electrification obligations for furnaces and crackers of various industries, CO2 free ammonia production, general fuel switching obligations with cascade use principles in the case of biomass.
- **Mainstream climate neutrality through effective "carbon pricing" to address the true cost of negative externalities on the environment in all economic sectors**. Extension of the Emissions Trading Scheme or the introduction of a carbon tax for sectors such as transport (aviation, maritime) are urgent measures to tackle rising emission in these sectors. Road transport should be addressed outside the ETS (CO2 emissions performance standards, air quality legislation, alternative fuel infrastructure etc.) as the ETS would not provide due incentives to decarbonise the sector. The revision of the Energy Taxation Directive will be a key instrument to establish minimum taxation regimes based on the carbon content of motor and heating fuels and to eliminate environmentally harmful subsidies (such as tax deductions and exemptions), which are an obstacle to the promotion of fossil-free energy, industry decarbonisation and increased energy efficiency. A carbon shadow price should be set at least at 100€/tonne CO2. This price level should be reflected in any EU policy instruments e.g. impact assessments, cost-benefits assessments methods.
- **Make circular economy contribute to climate emissions reductions by addressing embedded emissions in products and materials**, decarbonising the economy across the entire value chain as it involves upstream and downstream actors, decreasing end-of-life emissions (landfills, incinerators) and imported emissions. Push and pull measures must encourage the creation of markets for circular products and improve production by setting higher standards and depolluting feedstocks and processes. Horizontal measures targeting material efficiency and resources use reduction of products would help reduce the overall carbon footprint of the economy. Product policy such as Ecodesign, Energy Labelling and Ecolabelling should be extended or adapted to non-energy related products to address their material use and embedded emissions. Progress in setting up a systematic report of the carbon footprint of materials, products, services on the EU market will allow to set caps, financial and fiscal incentives based on their carbon intensity and potentially adjust a carbon border tax to be applied on goods and services entering the EU market.
- **Make sure that public resources are used to accelerate a faster and deeper decarbonisation of energy and energy-intensive sectors.** The upcoming revisions of the Guidelines on ETS and of the

Guidelines on Energy and Environment need to become an effective tool to stop supporting environmentally harmful sectors/activities and stop rewarding fossil-fuel based industries, including coal and gas. Public resources, as well as the European budget, must coherently be steered towards increasing funding for a just and clean transition and not perpetuate production and consumption models which will hinder such transition.

- **Align EU Industrial Strategy with 2040 carbon neutrality and 2050 zero-pollution ambition**. All EU and national policy levers must be used to accelerate the decarbonisation and wider zero pollution ambition of EU's economy. Sectoral targets based on best available techniques, the rigorous implementation of the energy efficiency first principle, the acceleration of (non-combustion type) renewable energy uptake in combination with phasing out of fossil energy carriers and related subsidies, are no-regrets solutions and must be enshrined in legislation consistent with specific industrial zero pollution roadmaps, including mandatory targets for industrial decarbonization in the NECPs which are fully consistent with the circular economy goal.
- **Include in the Common Agriculture Policy Strategic Plan Regulation an obligation for Member States to take measures in order to bring GHG emissions from agriculture down over the programming period of the new CAP (i.e. by 2027).** The commitment to spending 40% of the CAP budget on climate action must lead to effective emissions reductions by means of a robust, transparent, evidence-based methodology for tracking climate expenditure in the agriculture sector.
- **Climate law should recognise the importance of biodiversity,** its management and restoration, in contributing to climate mitigation given the carbon storage and sequestration functions of ecosystems, and in contributing to climate adaptation (e.g. flood control) and supporting the resilience to climate change. A commitment to spend €15bn/year on the management of protected areas and €100bn on restoration (of wetlands, peatlands, old growth forests, coastal marine ecosystems) over the MFF period is needed to ensure that EU's nature full capacity to contribute to addressing the climate emergency is realised, while at the same time addressing the biodiversity crisis.

To support the Climate Law important enabling mechanisms are needed, including:

- **Scale up the EU funding for climate and environment action and for a just zero pollution transition** to align the MFF 2021-2027 in the ongoing negotiations with the achievement of carbon neutrality by 2050, as set in the EGD and in Paris Agreement, and address biodiversity loss. Allocate at least 40% of EU funding to climate and environment related actions to facilitate the step change needed to decarbonise the European economy and implement the European Green Deal.
- **Better target the EU funding**[2] with a clear list of exclusions to avoid that European and national public money, as well as private finance mobilised under the Just transition Mechanism, is spent to support fossil-fuel based projects in energy production and consumption and environmentally harmful subsidies, that would still lock Europe in a highly emission-intensive path for decades. Prioritise win-win investments such as energy efficiency, low emissions transport, clean energy and a carbon neutral grid, ecosystem restoration, nature conservation and ecological farming, and submit EU spending to a clear GHG footprint analysis. When public and private financial support for the large-scale roll-out of breakthrough and sustainable pollution

[2] **See notably *A budget to address the climate crisis*** by **EEB and the Heinrich Boell Foundation,** b**uilding on joint project with CAN European, Clean Air Action Group (CAAG), Green Budget Germany and Green Budget Europe**
https://eeb.org/library/a-budget-to-address-the-climate-crisis/

prevention across the value chains are needed, those should be subject to rigorous criteria and inclusive scrutiny so to ensure best value for money.

- **Facilitate Member State expenditure by using the flexibility mechanism in the Growth and Stability Pact to exempt climate mitigation expenditure that is linked to the taxonomy from the 3% debt rule.**