

To: Environment Ministers of EU Member States

Cc: Commissioners for Environment, Climate, Transport, Industry, Agriculture and Health, and the Chair of the European Parliament Environment Committee

Concerning: Input to the EU Environment Council Meeting, Luxembourg, 26 June 2019

Brussels, 20 June 2019

Dear Minister,

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

1. "Towards a Sustainable Chemicals Policy Strategy of the Union"

The risks posed by chemicals to people, the environment and the economy are interconnected, however the EU policies and regulations to tackle them are not. The EU has already acknowledged that it will not meet the World Summit on Sustainable Development's goal of achieving the sound management of chemicals and waste by 2020.

While significant progress has been made, major implementation gaps remain, such as the failure to deliver the Union strategy for a non-toxic environment in 2018; the lack of progress on detoxifying our products, materials and environment as a follow up on the interface between chemical, product and waste legislation (ICPW)¹; the fact that the risks posed by endocrine disruptors and chemical mixtures are still not adequately tackled; the failure to publish the fitness check evaluation of all chemicals legislation other than REACH (due by 2017); and the very high levels of non-compliance of the information submitted by companies under REACH, which continues to hamper the authorities' capacity to sufficiently protect health and the environment.

The EU needs an overarching framework for chemicals policy that acts horizontally across the different pieces of legislation and policies and that establishes clear goals to ensure a non-toxic environment. Moreover, the EU needs to ensure transparency, coherence and consistency within the regulatory framework.

The EEB therefore calls on the Environment Council to:

- **Call on the European Commission to *make a regulatory proposal on an overarching chemicals regulatory framework* that includes specific proposal to ensure that *democratic and environmental principles are applied in EU chemicals policy*;**
- **Call on the European Commission to put in place a *non-toxic environment strategy* by the end of 2020;**

- Ensure that a **clean circular economy** and a **public information system** about substances present in materials, articles, products and waste is in place;
- Urgently debate within the Council on the need and mechanisms for **improved implementation and enforcement of the chemicals laws** in order to **address the implementation deficit**.

See Annex 1 for more detailed comments.

2. Regulation on water reuse

The EEB recognises the potential of water reuse to provide environmental, social and economic benefits and assist the EU's transition to a truly circular economy. Water reuse can be an important option in the toolbox of water management strategies, where it is justified. When compared to alternative sources of water supply such as desalination, water reuse often turns out to have lower environmental impact, require lower investment costs and have lower energy demands. What is essential is that it always contributes to improving the health of the EU's rivers, lakes and wetlands through the reduction of pressures from abstraction of water, *inter alia*, for irrigation.

Thus, the proposed EU level regulation setting harmonised minimum quality requirements for the safe reuse of urban waste-water for agricultural irrigation can create a level playing field for operators producing and supplying reclaimed water, as well as for farmers. However, the regulation needs to include appropriate safeguards for public health and the environment. In particular, water reuse should be developed based on the river basin management plans adopted under the Water Framework Directive and must not increase over-abstraction pressures on the water bodies.

The EEB therefore calls on the Environment Council to:

- Support the **adoption of the EU harmonized rules** promoting water reuse for irrigated agriculture, where justified, while supporting the achievement of good status objectives for all EU's waters and protecting human health;
- Maintain the **level of ambition on the minimum requirements** for quality of reclaimed water and monitoring set in the European Commission proposal as well as **add an additional layer of protection** on top of the minimum requirements, namely the obligation for relevant authorities to carry out risk assessments in order to identify any additional hazard that needs to be addressed for water reuse to be safe as well as making sure that using wastewater for irrigation does not add over-abstraction pressures;
- Complement **provision of information to the public with tailored communication campaigns** including on the broader context in the river basin justifying the need for water reuse and the associated benefits in order to ensure social acceptance as well as stakeholder involvement and engagement.

3. Environmental Implementation Review (EIR)

The EEB recognises the potential to strengthen the performance of Member States on environment through the Environmental Implementation Review (EIR). The second cycle EIR country reports that were published in April 2019 put an overall emphasis that there needs to be enhanced integration of

environmental policy to ensure that the acquis is fully implemented and respected in the Member States. While the country reports are an accessible tool that give an overview of the status quo in the Member States, they lacked the sense of urgency appropriate to the problems that were identified. The third cycle of the EIR needs to consider how the EU and Member States should follow up on the findings and priority actions to ensure that the country reports include concrete action plans to address the implementation gaps.

Indeed, significant implementation gaps exist in the areas of air quality, biodiversity, chemicals, water quality and management, waste management and industrial emissions. Many of the gaps identified can be overcome by strengthening and supporting good governance principles. Good governance is achieved through transparency and access to information on environmental matters, due process and public consultations, and access to justice to challenge decisions. This in turn requires that adequate resources are allocated and prioritised to promote good governance. Moreover, subsidy reform, green finance and tax reform are important elements to take into account for improved policy coherence.

Improving implementation will bring important environmental, economic and social benefits, and increase the credibility of national and EU authorities with citizens. Strong political support is needed to formulate and communicate country-specific recommendations within the EIR process.

The EEB therefore calls on the Environment Council to:

- *Take on board the recommendations and conclusions contained in the country reports of the second cycle of the EIR as matters needing urgent attention, bearing in mind that the problems identified are a summary and that there are overall and **widespread implementation deficits across the EU**;*
- *Evaluate how Member States intend to make use of the findings of the second cycle of country reports to **tackle implementation gaps** and identify ways to design the third cycle of reports so that these can be useful tools to the EU institutions, the Member States and the public;*
- ***Enhance country dialogues with the Commission together with NGOs** that work in their countries so that: 1) there is a more widespread utility of the reports to the governments, authorities, EU institutions, NGOs and other stakeholders and public, and 2) there is a plurality of sources about the state of play of the environment and the implementation of EU law in each Member State.*

4. Clean Planet for all: Strategic long-term vision for a climate neutral economy

The preparation for the upcoming United Nations Framework Convention on Climate Convention (UNFCCC) Conference of the Parties (COP25) and the need to send a strong signal to the international community by the endorsement of a significantly increased nationally determined contribution (NDC) and the goal of a net-zero greenhouse gas economy are at the centre of EU climate policies.

In this context the Environment Working Party should maintain a leading role to construct the building blocks for the political agenda for the work on the implementation of the EU's Long-term Strategy, while giving all relevant Council formations including energy, transport, agriculture and competition the opportunity to contribute to the discussion. As shown by the Commission's work, 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 preparation for COP25 means the Environment Council has the responsibility to give its full support to the European Commission in the submission of the revised NDC and the LTS. As the main provisions of the Paris Agreement Work Programme have been agreed in Katowice, and the open issues have been significantly narrowed down e.g. voluntary market mechanisms, the key element is now ambition.

European climate and energy policies need to be based on greenhouse gas emission reductions of at least 65% by 2030 and need to go to net-zero by 2040, enabling net-negative emissions thereafter. 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 essential elements of this and should be done well before the foreseen revision of the Clean Energy for All Europeans Package in 2023.

We therefore call upon the Environment Council, if not already agreed by the European Council this week, to endorse net zero GHG emissions in the EU before 2050 and preferably by 2040, and help limit warming to 1.5°C, and specifically to:

- **Ensure a substantial increase of the NDC and an endorsement of a net-zero greenhouse gas economy as a contribution to the UNSG Summit and the COP25 climate negotiations:** the EU's leadership in the High Ambition Coalition means the Environment Council has the responsibility to give its full support to the European Commission in the submission of the revised NDC and the LTS.

5. Regulation on LIFE

Since its creation in 1992, the EU's LIFE Programme has delivered outstanding performance and high added value including creating 74,500 jobs. The value of the results achieved through nature projects alone is estimated to be €43 billion according to the European Commission. The value of saving nature and improving the life of Europeans is, of course, priceless. LIFE is the only EU programme fully dedicated to supporting and funding environmental, nature conservation and climate action projects across Europe. However, the current levels of funding are not sufficient to tackle the major environmental challenges the EU faces.

More than 200 organisations such as research institutes, universities, local and national authorities, businesses and NGOs have called on the EU to increase the funding for the LIFE Programme to at least 1% of its next budget¹. This is a critical investment in healthy ecosystems and key to innovation and meeting the EU's environment, nature conservation and climate change objectives, which will support prosperity, jobs and well-being of EU citizens in a truly sustainable economy.

The EEB therefore calls upon the Environment Council to:

- *Agree the Council First Reading position and **negotiate to increase LIFE funding to at least 1% of the EU's Multiannual Financial Framework 2021-2027**. The European Parliament has already called for an increase of LIFE funding to 0.6% of the EU budget. This, however, falls short of 1% of the total EU budget advocated as necessary by more than 200 organisations across Europe.*

6. Regulation on monitoring, reporting and verification for shipping

International shipping is a significant source of greenhouse gas (GHG) emissions, and maritime emissions are expected to grow significantly (est. 250%) by 2050 which is incompatible with the Paris Agreement. Having accurate monitoring, reporting and verification of carbon dioxide (CO₂) for shipping is essential, but not enough to address climate change.

The EEB therefore supports our member Seas-at-Risk's position to call upon the Environment Council to:

- **Support the Luxembourg amendment proposal**, that requests, inter alia, that this Regulation also **set operational carbon intensity objectives for ships for the year 2030** – i.e. that **“Ships shall improve by 2030 their annual operational carbon intensity by at least 40% compared to 2008 levels”**, and that **“The Commission be empowered to adopt delegated acts in accordance with Article 23 to lay down the technical rules for compliance and verification with the requirements...”**

7. Work programme of the incoming Presidency

The Finnish Presidency will be the first presidency to work with the new European Commission and European Parliament and help lead a response to the dual existential crises of **climate change** and **biodiversity loss**, and seize the opportunities inherent in the needed transition from a linear to a **circular economy**. We welcome the recent announcement by the Finnish government to go net carbon neutral by 2035 and hope that this example, combined with Finnish leadership, will lead to other countries following suit and a higher overall climate ambition.

The Finnish Presidency is also the second of the current Presidency Trio that runs from 1 January 2019 to 30 June 2020, following Romania and followed by Croatia. It inherits the water dossiers - where the evaluation of the **Water Framework Directive** is of high importance - and is likely to face a revision of the **Industrial Emissions Directive (IED)**, as well as need to be engaged in the final negotiations on the **Common Agricultural Policy (CAP)** and the completion of the negotiations on the EU Budget, the **Multi-Annual Financial Framework (MFF)**.

As the presidency team that kicks off the new cycle of European Commission and European Parliament, it has an especially important role in helping promote the implementation of the **sustainable development goals** and encouraging the development of a transformative **Eighth Environment Action Programme** that can form a **Green New Deal for Europe** and catalyse a just transition to a one planet economy. It can propose a way forward for the **future of Europe** to take into account the children's street marches for climate change, and the wider green wave seen in the European Elections.

We therefore look forward to the Finnish 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.

8. Future Environment Action Programme

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).

The level of the environmental challenges facing Europe and humankind - from the climate emergency, "insectageddon" and wider biodiversity loss, to body-changing chemicals exposure, to corrosive effects of poor air quality on health and society, to the dramatic state of our oceans – each underline that a simple repetition of existing commitments is not enough, a series of small steps forward is not enough.

We need a deep systemic change of our policies to be able to address the system lock-ins that hinder progress; we need a deeper focus on the nexus of interconnections between policy goals to aim at true coherence; and we need political and resource commitments to ensure their implementation. All of this is needed so that citizens can have faith that the governments are addressing their concerns, so that there is a rule of law and so that the foundations of the European project are strengthened.

If we are to address the challenges Europe and the planet face and realise the available opportunities, there is a need to develop an 8EAP that can deliver a *Green New Deal for Europe*.

The EEB therefore calls upon the Environment Council to:

- *Recognise the need for an **ambitious and transformative 8EAP** and commit to developing this as a **Green New Deal for Europe** that helps address the climate and environmental crises facing Europe and the planet, that is **coherent with and supports the implementation of the Agenda 2030 and the SDGs**, and provide a long term framework for a systematic and just transformative change needed to protect people and planet.*
- *The 8EAP could practically run from **2021 to 2030** so as to link to the **SDGs** and have a **mid-term review completed by 2025** to encourage the European Commission's and European Parliament's acceptance and commitments for action and guide future priorities. This 8EAP could include the following priority themes:*
 - **1. Actions and targets for environmental crises & challenges, via:**
 - (a) **Environment crisis response: strengthening existing objectives & commitments** – by doing a "Good regulation for people and planet check" to assess whether what we have on our books is enough for the environmental challenges we face and for wider SDG commitments;

*(b) Identify and address **gaps & emerging issues**, via a foresight mechanism and science policy interface; and*

*(c) **Enhanced coherence: addressing interconnections and interfaces**, via the development of **enhanced cohesion strategies** on clusters of issues that identify interfaces/inter-connections and identify governance measures and targets to support enhanced coherence;*

- **2. Strategies and Action plans for System Change** to address lock-ins and enable a swifter and just transition to a one-planet economy;
- **3. Better, Accelerated Implementation and Enforcement:** of laws, commitments & promises to ensure an effective rule of law that supports environmental and social justice;
- And the following **horizontal elements**:
 - *(a) **Open and cooperative governance**;*
 - *(b) **Greening of finance and economics**; and*
 - *(c) **Digitalisation and artificial intelligence for people and planet.***

The EEB is developing a civil society vision for the 8EAP and we would be happy to share our working recommendations with environmental ministries across the EU.

Thank you in advance for your consideration of these points.

Yours sincerely,



Jeremy Wates
Secretary General

ANNEX 1

EEB comments to the Environment Council of 26 June 2019 on: "Towards a Sustainable Chemicals Policy Strategy of the Union"

Chemicals production is an increasing global problem. Production levels of chemicals have dramatically increased from 1 to 500 million tonnes and are predicted to further grow by 24% by 2020 in Europe¹. The EU has already acknowledged that it will not meet the World Summit on Sustainable Development goal of achieving the sound management of chemicals and waste by 2020.

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 committed to by the EU institutions in the 7th Environment Action Programme.
- 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, 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 of the 1999 EU endocrine disruptors strategy and the fitness check evaluation of all chemical legislation other than REACH (due by 2017) have not been published.
- The Commission still did not present legislative proposals on selecting polymers for registration under the 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 substances of very high concern (SVHC) dossiers, achieving the EU objective to list all relevant SVHCs 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 alternatives² and undermining the credibility of the process as reflected in a recent General Court judgement³.
- Despite the fact that the Commission's Communication on options to the interface between chemical, product and waste legislation (ICPW)⁴ 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 slow progress on detoxifying our products, materials and environment. Legacy chemicals

¹ OECD Environmental Outlook for the Chemicals Industry, 2001

² ECHA: <https://echa.europa.eu/es/received-applications>

³ <https://eeb.org/court-of-justice-stop-selling-dangerous-paint-immediately/>

⁴ https://ec.europa.eu/commission/publications/options-address-interface-between-chemical-product-and-waste-legislation_en

are present in consumer products and waste streams without traceability on their presence, location or concentration.

The EU needs an overarching framework that acts horizontally across the different pieces of legislation and policies and that establishes clear goals to ensure a non-toxic environment. Moreover, the EU needs to ensure transparency, coherence and consistency within the regulatory framework, always ensuring a high level of protection of environment and human health, in particular the protection of vulnerable groups.

In order to provide a truly high level of protection to the environment and to human health, a big transformation of all production processes is needed, that reduces chemicals' exposure from different sources; builds on and favours sustainable innovation, clean production and substitution; respects the precautionary principle and provides for sustainable jobs. It should be made clear that harmful chemicals should be substituted by safer alternatives which may or may not be chemical alternatives (this was not the case in a recent draft of the Council conclusions, where only safer *chemical* alternatives were specified).

However, the lack of financial resources to finance the shift to safer processes is a major barrier. A sustainable EU chemicals policy needs to be economically sustainable, meaning without costs to society as a whole. To this aim, the EU needs to internalize costs and resource the elimination of legacy toxic chemicals through financial tools that support progressive frontrunners and safer alternatives. But the polluter pays principle is barely applied to one of the richest sectors in the world, the chemicals industry.

The risks posed by chemicals to people, the environment and the economy are interconnected; however, the EU policies and regulations to tackle them are not. For example, highly regulated chemicals (substances of very high concern such as phthalates) under REACH are allowed in food contact materials.

The EEB therefore calls upon the Environment Council to call on the European Commission to:

- **Make a regulatory proposal on an overarching chemicals regulatory framework that:**
 - *Is protective towards human health and the environment, comprehensive, coherent and consistent with all other relevant policies;*
 - *Is aligned with the hierarchy of Actions in Risk Management that prioritises prevention, elimination and substitution over control measures;*
 - *Enables transparent, simple, streamlined and cost-efficient actions to ensure protection and compliance;*
 - *Is updated to the latest scientific knowledge and addressing real life exposures;*
 - *Provides that safety testing of chemicals is carried out by independent laboratories, with the process being paid for by an industry-supplied fund that is managed by an independent public body such as ECHA;*
 - *Encompasses a specific proposal to ensure that **democratic and environmental principles are applied in EU chemicals policy**, e.g. transparency in decision making, 'no data, no market', precautionary principle, substitution principle;*

- Put in place a **non-toxic environment strategy** by the end of 2020 as required under the 7EAP and ensure that the non-toxic environment goal is broadened under a new 8EAP;
- Ensure that a **public information system** about substances present in materials, articles, products and waste is in place;
- Propose **financial instruments that stimulate substitution, innovation and clean production**;
- Come forward with proposals to **clean the circular economy** by avoiding and eliminating toxic chemicals in the material cycles;

The EEB also calls upon the Environment Council to:

- Urgently debate on the need and mechanisms for **improved implementation and enforcement of the chemicals laws** in order to **address the implementation deficit**.

¹ Available at http://www.birdlife.org/sites/default/files/attachments/life_declaration.pdf