

To: Environment Ministers of EU Member States

Cc: Commission President, Executive Vice-President for the European Green Deal and Commissioners for Environment, Transport, Energy, Internal Market, Agriculture, Health and Food Safety and the Chair of the European Parliament Environment Committee

Concerning: Input to the EU Environment Council Meeting, Brussels, 18 March 2021

Brussels, 5 March 2021

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 Environment Council meeting. I invite you to take our concerns into account during final official level preparations as well as at the meeting itself. We have structured the letter according to our understanding that the agenda will cover Batteries, the Greening of the European Semester, the recently adopted EU Adaptation Strategy, the 8th Environment Action Programme (8EAP), the Chemicals Strategy and the United Nations Environment Assembly.

1. Batteries

On 11 March 2020, the Commission released a new Circular Economy Action Plan, which aims to give circular economy a pivotal role in EU policy. It notably announced the development of a renewed sustainable product policy, making sustainable products the norm on the EU market and targeting key economic sectors to apply comprehensive sustainable strategies, including the batteries sector. It stressed the essential role of the circular economy for our industrial strategy and our climate objectives. It also announced ambitious actions towards waste prevention and uptake of recycled contents. We welcome this new action plan and urge Environment Ministers to support it.

As a first implementation step for this ambitious action plan, the Commission released its proposal for a revised Batteries Regulation in December 2020. This could act as a precedent for future legislative initiatives targeting key sectors and deliver on the objectives mentioned in the Circular Economy Action Plan. In the December 2020 Council Conclusions on making the recovery circular and green, the Council welcomed this initiative which introduces provisions on carbon footprinting and information requirements, on recycled contents, and on durability, performance and replaceability requirements for batteries placed on the EU market. The proposal also introduces new collection and recycling targets, as well as second life provisions. Finally, the revised text refers to incentives for sustainable batteries and due diligence, targeting the batteries value chain and raw material sourcing. The efforts put in this proposal are certainly to be recognised. However, the proposal can still be improved to effectively match the ambition of the EU Green Deal and to accelerate the transition to a decarbonized circular economy.

We therefore call upon the Environment Council to confirm their support for the proposal, but also to seize the opportunity to:

European Environmental Bureau

• Rue des Deux Églises 14-16, 1000 Brussels, Belgium • ☎ +32 228 91090 • eeb@eeb.org • www.eeb.org

*International non-profit association • Association internationale sans but lucratif (AISBL) • EC register for interest representatives:
ID number: 06798511314-27 • BCE ID number: 0415.814.848 • RPM Tribunal de l'entreprise francophone de Bruxelles*

- Set strong eco-design requirements to ensure good performance and durability as well as removability, disassembly, reparability, replicability and reusability, with these being underpinned by appropriate technical standards;
- Tighten the definitions to avoid any possible loopholes, notably for '*light means of transport*'. This must be clarified and reflected throughout the text so as to not let any kind of batteries escape the scope of the Regulation;
- Ensure that carbon footprint calculations and declarations must be verified by independent third-party external auditors that are accredited by governments;
- Maintain the flexibility to set higher collection and recycling targets to boost recycling infrastructure at national level and to reduce the harm of wrongly discarded batteries;
- Enforce the effective phase-down of primary disposable batteries by replacing them with rechargeable batteries in electric and electronic devices whenever possible;
- Ensure the ethical and responsible sourcing of raw materials at all stages of battery manufacturing, including for portable batteries. International instruments and due diligence requirements should be expanded to better protect vulnerable communities;
- Request the Commission to table, as soon as possible, a proposal for a common methodology for the calculation and verification of recycled content used in the production of batteries. The reporting of recycled content by manufacturers should be required as soon as the Regulation enters into force, while binding targets should follow soon after.

2. Greening of the European Semester

In 2010, the European Commission launched the European Semester process to help coordinate economic policies across the EU. 'Greening the European Semester' has become part of this process, aiming to ensure that macro-economic policies are environmentally sustainable. The process has received new political attention in the European Green Deal, with a promise to integrate the Sustainable Development Goals (SDGs) into the Semester. Furthermore, with the Covid-19 crisis and the recovery package, the National Recovery and Resilience Plans are also being integrated into the Semester process.

The role of the Recovery and Resilience Plans for a Green Transition

We call upon Environment Ministers to:

- Increase the political commitment to Greening the European Semester and encourage measures that improve economic signals for the transition to a resource-efficient, inclusive and circular economy. Positive practices that reform environmentally harmful subsidies should be encouraged and the option to develop national subsidies accounts under Regulation 691/2011 should be embraced. Similarly, continued efforts should be made for 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. Commitments to these types of policy reforms should be taken up in the National Recovery and Resilience Plans (NRRPs);
- Ensure that the climate-tracking methodology and the Do No Significant Harm (DNSH) principle in the NRRPs are fully implemented and that no negative interactions with other measures in the NRRPs may

European Environmental Bureau

• Rue des Deux Églises 14-16, 1000 Brussels, Belgium • ☎ +32 228 91090 • eeb@eeb.org • www.eeb.org

*International non-profit association • Association internationale sans but lucratif (AISBL) • EC register for interest representatives:
ID number: 06798511314-27 • BCE ID number: 0415.814.848 • RPM Tribunal de l'entreprise francophone de Bruxelles*

risk jeopardising its green dimension and the Recovery and Resilience Facility's main objective to protect the climate and stop nature destruction;

- Ensure that the measures included in the NRRPs are not only consistent with but also additional to those already set out in the National Energy and Climate Plans (NECPs) and that they will help to raise the ambition of the NECPs further to contribute to the revised GHG emissions target for 2030 and put the economies on a firm path towards climate neutrality;
- Make sure that the NRRP and the Partnership Agreements are consistent and that no money goes to subsidising fossil fuels-based activities (coal, oil, gas), which are the main source of carbon emissions and the cause of climate change, nor to environmentally damaging activities such as nuclear power or intensive agriculture;
- Fully acknowledge the role of civil society in the assessment of the NRRPs and provide the conditions and legal framework at national level for setting up a structured and regular dialogue before the final submission of the NRRP to the EU institutions to be maintained throughout the period of implementation of the NRRP. This should be done in accordance with existing EU law, and in line with the public participation requirements of the Aarhus Convention, and should include financial and budgetary plans.

The future of the Semester in the context of the Recovery and Resilience Facility and the Green Transition

We call upon the Environment Council to:

- Reform the European Semester so that it drives a long-term social, environmental and economic transformation, and improve the integration of the 2030 Agenda and the European Green Deal at all levels (from headline indicators to priorities);
- Implement the Council Conclusions on the "Economy of Wellbeing" agreed during the Finnish Presidency¹ and go further to embrace beyond-GDP indicators on the wellbeing economy to put people and their wellbeing at the centre of policy design;
- Push for the European Green Deal promises to be reflected in the European Semester reform – first, by fully integrating the SDGs into the European Semester process and documents, and second, by embracing the shifting narrative that environmental protection is essential for human wellbeing and indeed a foundation for economic resilience. Progress on the SDGs and the state of the environment should underlie the European Semester. This will make the Semester more fit for purpose as a major guiding tool for the Commission and Member States in their joint efforts to implement the European Green Deal;
- Include the proposed 8EAP commitment to a "regenerative economy" in the European Semester, both via metrics and through policy recommendations to implement this commitment;
- Recognise the importance of the interactions between environmental and national economic and sectoral policies that will support good governance and facilitate implementation. Nature-based solutions can be invaluable for national socio-economic priorities, such as rural viability through agroecology, local products and sustainable tourism, employment and ecosystem-based approaches to

¹ <https://data.consilium.europa.eu/doc/document/ST-13171-2019-INIT/en/pdf>

fisheries management, as well as health benefits from access to Natura 2000 sites and green infrastructure;

- Ensure meaningful civil society engagement throughout the Semester process at Member State and EU level. Open civic space is particularly important around the agreement on and implementation of the NRRPs. Recent analysis has shown that public participation in the design of NRRPs across the EU has been weak and does not comply with public participation rights as enshrined in the Aarhus Convention or public partnership principles embraced under the MFF.

3. Climate Adaptation Strategy

The EU Strategy on Adaptation to Climate Change, adopted on 24 February 2021, sets out how the European Union can become climate resilient by 2050. While it is imperative that the EU steps up its climate mitigation action, the EU must also get ready to protect people and the environment against the unavoidable impacts of climate change, many of which are already happening today. The Council must commit to adequate action towards a climate resilient Union, including by setting legally binding targets in the upcoming Fit for 55 Package.

Overall, the EEB welcomes the adoption of a new EU Adaptation Strategy and its focus on nature-based solutions, nature restoration, and climate resilient and sustainable water use and management, and the fact that adaptation action needs to be recognised as a priority in the post-Covid-19 green recovery. It is truly disappointing, however, that the European Commission failed to set out concrete, measurable and time-bound targets to enable sustained progress on the pathway towards a climate resilient Union by 2050, thus putting the onus on Member States' individual action.

We therefore call upon the Environment Council to:

- Commit to meeting the objective of the Strategy for the EU to become climate resilient by 2050 and to ensure the adequate implementation of the Strategy;
- Increase the ambition of the Strategy in recognition of the urgent need to get ready for the unavoidable impacts of climate change by including legally binding measures in the upcoming climate legislation to provide people across the EU with equal levels of protection and resilience against the impacts of the climate crisis;
- Strengthen the focus on the large-scale deployment of nature-based solutions and nature restoration as a key opportunity for synergistic solutions that also address the biodiversity crisis;
- Call for the achievement of the climate-resilient, sustainable use and management of water by improving water allocation as well as the implementation and enforcement of the Water Framework Directive;
- Call for and contribute to the better mainstreaming of adaptation across all sectors and policies, especially in agriculture, forestry, fisheries, the building sector, renovation and spatial planning;
- Recognise climate adaptation as a priority for the post-Covid-19 green recovery and integrate climate adaptation as a core element of National Recovery and Resilience Plans.

4. 8th Environment Action Programme

The 8th Environment Action Programme (8EAP), the subject of a Commission proposal published on 14 October 2020, is a key co-decision-based instrument and long-term tool for environmental and climate policy planning until 2030, with a 2050 vision to “live well, within the planetary boundaries.” Through its commitment to monitor the proposed thematic objectives, it will be a key monitoring tool for the European Green Deal, as well as the SDGs. However, the 8EAP proposal, while it is welcome and contains a range of important commitments, is too weak to be fully fit for purpose, to meet its objectives and to address the environmental crises. It is essential that the 8EAP foresees not just monitoring but commits to effective and appropriate governance – i.e. talking about progress at the right level to make a difference – and ensures strong policy responses where progress is insufficient.

We therefore call upon the Environment Council to support the above and to:

- Complement the proposed 2029 evaluation with a mid-term evaluation in 2024. This evaluation should focus not only on progress as regards the 8EAP’s environmental priorities but should also contribute to assessing progress on the EGD and SDGs. The assessment should also be a basis for policy responses where progress is insufficient;
- Ensure annual monitoring of progress and commit to discussing progress at high levels in each of the European institutions. Annual progress on 8EAP objectives and EGD and SDG implementation should be discussed not only in the European Semester, but also in all relevant Council formations and committees of the European Parliament (EP), at Head of State level, College of Commissioners and in the EP Plenary given the fundamental importance of the EGD to the EU and our common future;
- Strengthen the monitoring framework to include the level of systemic transformation and system lock-in, the state and resilience of Europe’s ecosystems and build up the indicator set on the “wellbeing compass”. Furthermore, strengthen indicators on policy incoherence and other governance shortcomings to be able to better understand and target the key drivers of the environmental crises, focusing on causes rather than symptoms;
- Articulate clear policy response mechanisms to be triggered by insufficient progress or new evidence on emerging issues. The 8EAP text should be strengthened so that insufficient progress triggers new or reformed legislation that leads to financial incentives and penalties, and initiates governance changes to ensure that objectives are met, that the polluter pays principle is upheld and that policy coherence and implementation are guaranteed;
- Strengthen the “regenerative economy” by committing to integrate it across policies, by setting indicators for regular progress monitoring and by regularly reporting on whether EU policies and the EU economy are giving back more to the planet than they are taking. Integrate indicators and results into the European Semester and wider policy discourse;
- Strengthen the commitment to the Wellbeing Economy and broader assessment of wellbeing indicators beyond GDP indicators, and integrate these into the European Semester and wider policy discourse;
- Use the 8EAP to make a strong commitment to reform environmentally harmful subsidies as these will otherwise undermine progress on the 8EAP (and EGD and SDG) objectives. A commitment should also be made to having regular national accounts on subsidies (Environmentally Related Transfers) to ensure transparency and visibility of subsidies. This is possible under Article 10 of the EU Regulation 691/2011 on European environmental economic accounts.

For more details see the [EEB's feedback](#) to the Commission's 8EAP proposal.

5. Chemicals Strategy

The Chemicals Strategy for Sustainability, published in November 2020, promises to bring the EU safe and sustainable chemicals. Its implementation will strengthen and improve existing legislation of industrial chemicals while subjecting the EU chemicals industry to stronger environmental health standards. The Council's support must steer an ambitious implementation of this Strategy.

We therefore call upon the Environment Council to:

- Call for a swift implementation of the actions included in the Chemicals Strategy for Sustainability, particularly to protect vulnerable populations, strengthen the REACH Regulation, ensure a clean circular economy and innovate for safe and sustainable by design chemicals;
- Support crucial elements of the Chemicals Strategy for Sustainability, in particular the toxic-free hierarchy, the generic approach to risk management and the principle that the same limit value for hazardous substances shall apply to virgin and recycled materials, as well as the PFAS and EDC action plans;
- Particularly support the 'zero tolerance to non-compliance' approach, which cannot be delivered upon without Member States' political and practical support;
- Guarantee strong and mutual impregnation of the Chemicals Strategy for Sustainability with other horizontal policies, especially the Zero-Pollution Action Plan, the Farm to Fork Strategy, the Biodiversity Strategy, the Circular Economy Action Plan and the Europe Beats Cancer Plan;
- Ensure a broad and ambitious microplastics restriction and a registration process under REACH that will ensure public information on the hazards of the polymers that are contributing to the plastic crisis.

6. UN Environment Assembly (and links to other key international processes)

The first session of the 5th UN Environment Assembly (UNEA 5) was held online on 22 and 23 February 2021 (UNEA 5.1). Due to its virtual format, UN member states had agreed to postpone any substantial negotiations and decisions to the 2nd session of UNEA 5 (UNEA 5.2) scheduled to take place in Nairobi in February 2022. While we welcome the fact that the UN member states, including EU member states, have adopted UN Environment's Medium-Term Strategy, Programme of Work and budget, we are concerned that crucial decisions are being further delayed or risk to lose momentum. While pollution has reached every corner of the planet and while the destruction of the planet's biodiversity is turning into an existential crisis for humankind, global solutions to the pollution and biodiversity crises have been delayed. Most prominently, the pandemic has slowed down global action to curb plastic pollution through a new global agreement, an issue that was meant to be addressed by UNEA 5 this past February. The pandemic has put on hold the process to adopt a post-2020 framework on chemicals and waste (post-2020 SAICM) and delayed an agreement on the post-2020 Global Biodiversity Framework.

We therefore call upon the Environment Council to:

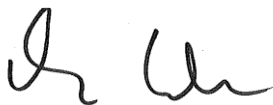
- Prepare and ensure an agreement at UNEA 5.2 to adopt a mandate to start negotiations for a legally binding instrument on plastic pollution. These negotiations then need to include the communities most

impacted by plastic pollution along the entire production and disposal process, and the instrument needs to adopt an approach that not only makes the polluter pay but also implements a life-cycle approach with a strong focus on drastically limiting plastic production and ending plastic waste;

- Establish an international instrument at the post-2020 SAICM that ensures the highest health and environmental standards for toxic chemicals that are not yet covered by existing multilateral agreements. This must also include a legal mechanism to phase out highly hazardous pesticides by 2030 and the full adoption of the globally harmonised system of classification, labelling and safe handling of chemicals (GHS) by all member states;
- Ensure that environmental principles and rights that have emerged under environmental law globally and that are enshrined in constitutions and laws in many countries, including the EU, are fully and globally recognised, 50 years after the 1972 Stockholm Conference, an anniversary that will be celebrated next year. This includes the codification of a human right to a healthy environment and the protection of environmental defenders across the globe. We call on you to prepare, propose and negotiate a strong declaration to be adopted at Stockholm +50 that comes with a clear action plan on how to close the gaps in international environmental law and governance.

Thank you in advance for your consideration of these points which support the ambitions of the European Green Deal, help with the coronavirus recovery process and will help catalyse progress in meeting the environmental challenges facing Europe and the planet. Ambitious environmental commitments are needed to respond to scientific evidence and support EU and national legitimacy in the eyes of the wider public which broadly supports increased EU action on the environment.

Yours sincerely,



Jeremy Wates
Secretary General