

**To: Environment Ministers of EU Member States**

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

**Re: Input to the EU Environment Council Meeting, Luxembourg, 10 June 2021**

Brussels, 31 May 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 EU Environment Council. I invite you to take our concerns into account during final official level preparations as well as at the meeting itself. We have structured the letter according to our understanding of the 10 June Council Agenda.

### **1. Regulation concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020**

Aiming to address the shortcomings of the Battery Directive (2006/66/EC), in December 2020 the European Commission adopted a proposal for a Regulation on batteries and waste batteries (the 'Battery Regulation'). This is the first policy worldwide envisaged to cover the whole battery value chain.

Overall, the proposed Regulation addresses several crucial elements which set the right way forward towards the sustainability of batteries. For instance, the proposal on the table sets increased targets for the collection and recycling of batteries, aligned with the EU circular economy ambition. The proposed rules also include performance and durability requirements for industrial and portable batteries, as well as provisions facilitating repair, repurposing for second-life applications and recycling. To make batteries more sustainable, the Commission proposes to introduce a battery passport, both for electric vehicles and industrial energy storage batteries, to clarify the responsibilities of producers across the value chain and set information and maximum emission requirements for the carbon footprint of batteries.

Although the proposed measures will bring a significant improvement to the current situation, several aspects remain a matter of concern. It is now up to the European Parliament and the Council's national governments to improve the proposals and to make the EU's sustainable battery policy a real success story.

***We therefore call upon the Environment Council to support the directions set in the Commission proposal, but also to seize the opportunity to:***

- Demand strong eco-design requirements for portable batteries to ensure good performance and durability and requirements that focus on replaceability, reparability and reusability, underpinned by appropriate technical standards;
- Revise the definition of 'light means of transport' to ensure that all batteries from light means of transport are defined as portable batteries;
- Include calculation and reporting requirements for a battery's carbon footprint that ensure the use of renewable energy in production, as well as data that are verified by independent third-party auditors that are accredited by governments;

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- Ensure the swift development of the methodology for the calculation of recycled content in the production of batteries, to be extended also to portable and primary batteries;
- Demand levies on the use of disposable batteries, in preparation of their phase-out, with a view to promoting devices that can use a power cable or a rechargeable battery instead;
- Require obligations regarding the provision of information targeting the supplier/producer and consumers;
- Call for higher collection targets, in particular 85% for portable batteries from 2030 and 90% for light means of transport from 2025, as well as for incentives for the collection of industrial, automotive and EV batteries;
- Add mandatory tests to determine whether it is technically possible and economically reasonable (including if there is a market) for batteries to be repurposed for a second life;
- Demand more ambitious recycling targets for battery material recovery (95% for cobalt, nickel and copper in 2025 and 98% in 2030), in particular for lithium (70% in 2025 and 90% in 2030), and the introduction of a review clause to maintain the highest possible level of recycling, taking into account any new battery chemistries that may develop in the future;
- Request additional requirements on top of the Organisation for Economic Co-operation and Development (OECD)'s due diligence provisions to ensure environmental protection and better protection of vulnerable communities, ensuring that accountability for fulfilling such obligations remains with the economic operator and not with an industry scheme.

For more details on all these points, see our detail position paper shared by more than 40 organisations: <https://eeb.org/library/enhancing-the-sustainability-of-batteries-ngo-position-paper/>

## **2. Conclusions on forging a climate-resilient Europe – the new EU Strategy on Adaptation to Climate Change**

The EU Strategy on Adaptation to Climate Change, adopted on 24 February 2021, sets out how the European Union plans to 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 the 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 actions.

### ***We therefore call upon the Environment Council to:***

- Commit to meeting the Strategy's objective of a climate-resilient EU by 2050 and to ensuring the adequate implementation of the Strategy;

- Increase the ambition of the Strategy in recognition of the urgent need to address the unavoidable impacts of climate change by including concrete, time-bound and 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;
- Demand a clear time plan for the implementation of the commitments in the Strategy from the Commission with concrete requirements, clear measures, deadlines and a suitable monitoring framework to ensure that the EU is on track to meet its 2050 objectives;
- 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 and 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;
- Significantly step up national level efforts on adaptation in line with the precautionary principle in order to protect human health, wellbeing and fundamental rights, especially of younger generations;
- 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 and other financial instruments.

### 3. EU Communication on the EU Action Plan on Zero Pollution

The European Green Deal's commitment to create a toxic-free environment and achieve zero pollution is an essential and long-awaited commitment to put people's health and the protection of environment centre stage in policy making, while giving a clear direction to business as to the common future that we seek. The Pathway to a Healthy Planet for All - EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' (ZPAP), launched on 12 May, is a key piece of the European Green Deal. While eclipsed by a policy focus on climate change, zero pollution, like biodiversity, needs to be tackled with equal ambition. They are each of existential importance.

Pollution is the leading environmental [cause](#) of disease and premature deaths. This "[incessant exposure](#)" is linked to a [silent pandemic](#) of disease, according to the UN. Toxic air, water, soils and workplaces are [estimated](#) to kill at least 9 million people a year worldwide. The costs of pollution also need to be considered: the Second Clean Air Outlook by the European Commission, published in 2021, estimated air pollution health costs to be, in 2005, €527-1519 billion (using core values) or €713-2005 billion (using supplementary values). Additionally, costs for materials, crops, forests and ecosystems have been estimated by the same study, amounting jointly to €44-53 billion (also for the year 2005).

The aim of the new plan is to prevent, minimise and remediate the pollution of air, water, soil and noise pollution across the EU, strengthening its commitment to protect people's health and the environment. It also aspires to embrace global responsibility for pollution which has always been an Achilles heel to statements of EU leadership. The ZPAP narrative is attractive, however the proposal largely presents already agreed commitments and falls short on ramping up action to prevent

pollution at source and to make polluters pay. It is not yet the convincing zero pollution action plan that is needed.

***We therefore call upon the Environment Council to:***

- Adopt Council Conclusions on Zero Pollution to raise the ambition of the EU towards reducing pollution by identifying the correct level of ambition (reflecting the fact that there are no safe levels of pollution) and highlighting priorities on where additional action is needed;
- Promote the notion that a 'zero pollution' commitment actually means zero pollution and not a difficult-to-define concept of zero harm to people and planet that would lead to decades of fighting over where to draw the regulatory line and what level of pollution is 'acceptable';
- Welcome and strengthen (and implement nationally) the commitment to move from the current approach that relies on clean up, remediation and control to one prioritising prevention, elimination and substitution;
- Encourage an integrated approach towards pollution, i.e. ensure that all pollution is treated together to avoid potential trade-offs from a single pollutant focus and push for the mainstreaming of this integrated approach. Policy coherence and greater attention to co-benefits must guide decision-makers in setting the right priorities;
- Promote the use of instruments to implement the prevention, precautionary and polluter pays principles as recalled in the ZPAP (which unfortunately does not adequately define the necessary action to respect these principles). Domestic action on the polluter pays principle is also needed, given the Member States' competency and domestic interests in public health. The current national recovery and resilience plans are an opportunity for embracing and communicating policy reform;
- Commit to the strengthening of EU standards on air pollution to fully align them with the upcoming WHO guidelines on air quality; embrace the aim to reduce premature deaths and diseases due to anthropogenic air pollution to zero and ensure that air pollution impacts on ecosystems and biodiversity are reduced so as to not exceed critical loads and levels that undermine ecosystem resilience;
- Push for a stand-alone legal framework to protect soil, similar to the framework that is already in place for water and air quality, this being the only way to reduce pollution and ensure that our soil is able to produce healthy food that is free of harmful substances;
- Promote comprehensive action to reduce noise pollution nationally and encourage a timely and ambitious review of the Environmental Noise Directive, addressing noise as the second biggest environmental health threat in Europe after air pollution; commit to complying with the WHO Environmental Noise Guidelines for the European Region's standards on traffic, railway, aircraft, wind turbine and leisure noise, therefore reducing noise exposure and related health and environmental damage;
- Demand that the legal reviews of water legislation match the real zero pollution vision and ensure that other EU sectoral policies and budgets are used to their full potential to tackle water pollution and make polluters pay;
- Ensure that light pollution is treated within the roll-out of the ZPAP and in national plans given its importance to insect loss;
- Promote transparency by emphasizing the need of improved tools for benchmarking, compliance promotion and progress tracking;

- Given the importance of zero pollution for all EU citizens and across Member States, strengthen not just EU policy, but review and strengthen also national and regional policies towards prevention and zero harm and ensure zero money for pollution by reforming national subsidies and fully respecting the 'do no harm' principle in the national recovery and resilience plans.

See [EEB vision for a zero pollution future](#)

#### 4. Regulation amending Aarhus Regulation (EC) No 1367/2006

On 14 October 2020, the Commission published its much-anticipated proposal for the revision of the Aarhus Regulation. The Commission proposal would remove some of the existing restrictions, while maintaining others and even adding some new ones.

The Council's General Approach, in large part supporting the Commission proposal, was adopted on 21 December 2020 and therefore before the Aarhus Convention Compliance Committee (ACCC) had finalised its advice on the position of the Commission on whether it would sufficiently amend the Aarhus Regulation in a way that would make the EU compliant with the Convention. The ACCC's advice issued on 12 February 2021 pointed out four main areas that still needed to be worked on for the EU to not fall short of compliance. These notably included the exclusion of decisions that require implementing measures and of State aid decisions taken by EU institutions from the scope of the Regulation.

Unfortunately, doubts have been misleadingly raised about whether these issues can be tackled within the framework of the EU's legal order. The legal position, as expressed for instance in a [letter](#) supported by hundreds of jurists from all over Europe, is however completely clear: there is no legal obstacle under the EU Treaties to addressing these issues in line with the ACCC advice. Furthermore, there is no basis in the Convention for such exclusions, which would effectively mean that some of the decisions that have the biggest impact on the environment, for example public funding of the carbon economy, cannot be challenged. The EU risks being found to remain in non-compliance with international law should these problems not be solved before or during the trilogues.

The [European Parliament's position](#) adopted on 20 May 2021 attempts to align itself with the ACCC's advice so that the EU follows international law while respecting the EU legal order. It is crucial that the Council now follows the lead of the Parliament and revises its general approach to reflect the ACCC advice.

#### ***We therefore call upon the Environment Council to:***

- Ensure that the Commission's proposal is strengthened through the co-decision process, in line with the ACCC advice, with a view to addressing the democratic deficit caused by insufficient access to justice at the heart of the EU's environmental decision-making processes;
- Commit to ensuring that the EU fully complies with international law obligations under the Aarhus Convention by the time of the Aarhus MoP-7 in October this year.

Further details of our recommendations can be found in the [joint letter](#) from the EEB, ClientEarth and Justice & Environment dated 15 February 2021 and a [Green 10 letter](#) addressed to the European Parliament dated 11 March 2021.

## 5. Decision on the 8th Environment Action Programme

The 8<sup>th</sup> 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. There are a wide range of areas where the proposal can be strengthened – some already being embraced in the Council’s compromise proposal and others in the European Parliament amendments being tabled.

### ***We therefore call upon the Environment Council to:***

- Complement the proposed 2029 evaluation with a mid-term evaluation in 2024. This evaluation should focus not only on progress of the 8EAP’s environmental priorities but should also contribute to assessing progress on the environmental aspects of 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 these instruments to the EU and our common future;
- Strengthen the monitoring framework to include the level of systemic transformation and system lock-in and 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;
- Deepen the commitment to the Wellbeing Economy and nurture the growing alliance of wellbeing governments (New-Zealand, Scotland, Iceland, Finland and Wales); embrace a broader assessment of wellbeing indicators beyond GDP indicators, and integrate these into all policy frameworks, including the European Semester. Build on national experience and take note of the

EEB-Oxfam Germany report [Towards a wellbeing economy that serves people and nature](#) and the event under Portuguese presidency on 8 June 2021 – [The Path to a Wellbeing Economy](#);

- 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.

## 6. Slovenian Presidency of the Council of the EU

The Slovenian Presidency of the Council of the EU will hopefully see Europe fully emerge from the Corona crisis with a strong sense of solidarity and building back better. Slovenia will inherit very significant legislative and policy responsibilities for its leadership, building on the current and earlier Portuguese and German Presidencies in the DE-PT-SI Trio from July 2020 to December 2021.

Particularly high-profile climate and environmental dossiers include the Fit-for-55 Package which reforms a dozen policy files and the Zero Pollution Action Plan. It will also have important responsibility in the area of circular economy where the Textiles Strategy, Sustainable Product Policy, and circular economics initiative will feature, in biodiversity related policies given the Forest Strategy, the Mobility Package, TEN-E Regulation, and the greening the European Semester. It may also oversee the finalisation of the hydrogen strategy and Battery Regulation where an agreement on a "general approach" is expected during the Portuguese Presidency.

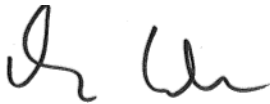
The Slovenian Council Presidency will also potentially lead the EU (if no further Covid delays) in a range of critically important international environmental and climate fora – international biodiversity meetings in Kunming, China 11-24 October (tbc) focusing on the CBD COP 15, Cartagena COP-MOP 10, as well as the Nagoya COP-MOP 4; the Climate COP: UNFCCC COP 26 in Glasgow 9-20 November that will welcome back the USA; the ICCM 5 (SAICM) on chemicals on 5-9 July, in Bonn, Germany; MOP 7 of the Aarhus Convention on 18-21 October in Geneva; and the Triple COP BRS: COP 15 Basel, COP 10 Rotterdam and COP 10 Stockholm, over the period 19-30 July in Geneva, Switzerland.

### ***We therefore call upon the upcoming Slovenian Presidency and the Environment Council to:***

- Ensure that the European Green Deal is at the heart of the Slovenian presidency programme – with commitments to advance on climate, environment and health dossiers;
- Help guarantee an EU leadership on progressing commitments and actions on climate change, environment and health by adopting commitments for transformative approaches to respond to global challenges and to lead by example at home.
- As artificial intelligence is one of the priorities of the Slovenian presidency in the context of a commitment to the digital and green transition as well as a resilient European Union, encourage that AI is targeted to support people and planet – and an active tool for decarbonisation, circular economy and zero pollution ambitions, while fully embracing the ethical dimension of AI.
- Build on the progress made by the German and current Portuguese presidency, and create a positive legacy and strong platform for future progress under the next French, Czech and Swedish presidency trio.

Thank you in advance for your consideration of these points which support the ambitions of the European Green Deal and will help catalyse progress in meeting the environmental challenges facing Europe and the planet. This will respond to scientific evidence and also support EU and national legitimacy in the eyes of a public which broadly supports increased action at EU level to protect the environment.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. Wates', is positioned below the text 'Yours sincerely,'.

Jeremy Wates  
Secretary General