

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, Brussels, 20 December 2021

Brussels, 10 December 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 20 December Council Agenda.

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

One year ago, the European Commission adopted a proposal for a Regulation on batteries and waste batteries (the 'Batteries Regulation') recognising the need to regulate this rapidly growing sector, while putting the EU at the forefront of technological and sustainability development of electrification. The proposal is the first of its kind - aiming at creating a sustainable battery industry. The proposal is an opportunity to introduce smart rules that can underpin the rapid development of a world-leading battery supply chain in Europe by putting in place future-proof rules to ensure batteries both made in and coming into Europe are sustainable and prevent and avoid harm to frontline communities and the planet.

It is crucial that this opportunity is seized now and we are therefore concerned about Council proposals to further delay the introduction of core rules regarding the reduction of the carbon footprint of batteries by an extra four years, of mandatory supply chain checks by an extra two years and of performance and durability requirements by two years. [Together with 40 other NGOs](#), we strongly oppose such delays. Europe's battery industry is being set up now, and not in three- or four-years' time.

Instead of delaying action, the Council should support the direction of the Commission's proposal, but strengthen and build upon positive elements of the law, especially regarding collection and recycling targets, replaceability requirements and the unjustified 2 kWh threshold for due diligence requirements, carbon footprint and product passport provisions, as well as durability and performance requirements. In addition, due diligence requirements should be made more robust and compelling.

We therefore call upon the Environment Council to:

- Reject calls for needless and counter-productive delays and as a minimum support those timelines proposed by the European Commission, thereby ensuring that the European Green Deal is implemented as swiftly as necessary, and make sure that Europe's new battery industry commits to address human rights and environmental harm from the get-go;
- Extend the scope of the Regulation to cover also batteries used in the military sector;

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- Demand strong eco-design requirements for portable and industrial batteries to ensure good performance and durability and requirements that focus on replaceability, reparability and reusability, underpinned by appropriate technical standards;
- Remove the 2kWh capacity threshold for the applicability of key innovative provisions on due diligence, carbon footprint, product passport, and other performance/durability requirements;
- 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 ensures the use of renewable energy in production, as well as data that is verified by independent third-party auditors accredited by governments;
- 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 for their phase-out, with a view to promoting devices that can instead use a power cable or a rechargeable battery;
- 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 developments in battery technology that may take place in the future;
- Request additional requirements on top of the Organisation for Economic Co-operation and Development's (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 [detailed position paper shared by more than 40 organisations](#) and [the joint statement on removable, replaceable and repairable batteries](#).

2. Fit for 55 package: Revision of Directive (EU) 2003/87/EC establishing a system for greenhouse gas emission allowance trading (ETS)

ETS 1 - Power, industry, aviation and shipping:

The Emissions Trading Scheme (ETS) can be an important driver towards decarbonising our economies, but market mechanisms must go in hand with tightened regulatory measures. In the past ten years, the ETS's potential has been reduced by at least three main flaws: the CO₂ price has been largely below what is needed, free CO₂ permits to most polluting industries have delayed decarbonisation and generated windfall profits, and the ETS revenues have been used by the Member States for other purposes than tackling climate change. The revision of the ETS Directive only partly

addresses these flaws. The ambition of the ETS needs to be aligned with the urgency to massively reduce emissions as underlined by the IPCC 6th Scientific Report on Climate.

We therefore call upon the Environment Council to:

- Remove free allowances to industry and replace them by full auctioning;
- Phase out compensation for ETS indirect costs (state aid rules);
- Set mandatory earmarking of 100% of auctioning revenues for climate purposes and avoid that Member States' revenues are spent to support fossil-fuel based industry (amongst others, state aid for CO₂ or indirect costs for industry);
- Push for the inclusion of municipal waste incineration as it still remains excluded from the ETS scope;
- Increase the target for shipping and extend the ETS to international flights;
- Ensure that the ETS Directive delivers an EU-wide coal phase-out by 2030 at the latest and sets a Paris-Agreement-compatible minimum CO₂ price of 100 €/ton CO₂, notably through a minimum carbon price floor system or the Emission Performance Factor (EPF);
- Remove Art. 26 of the ETS Directive to ensure policy coherence between the ETS and the Industrial Emissions Directive (IED) through a combined approach to allow the application of performance-based standards (e.g. as set in the EU BREFs/IED and Ecodesign Directive);
- Set a GHG performance standard to 100gCO₂eq/KWh for the power sector applicable by 2030 at the latest, with a directional target value set to 0gCO₂eq/KWh by 2050;
- Ensure the immediate review of the EU ETS benchmark system to provide for 'one product/service = one benchmark', excluding free-riders and driving for innovation, and in the interim, set an Emission Performance Factor (EPF) acting as a performance-based multiplication factor to apply for EUA price compared to state-of-the-art top performers;
- Exclude fossil fuels from both the Innovation and Modernisation Funds.

See also the [EEB comments on the Inception Impact Assessment of the revision of the EU ETS](#) and the [EEB's letter on ensuring ETS and IED consistency within the Fit for 55 package](#).

ETS2 - Buildings and transport

While the proposed extension of the ETS to buildings and transport would apply carbon pricing to these sectors and hence potentially lead to important emissions savings, it can also bring with it significant environmental, financial and social risks. Concerns remain about whether this instrument will effectively deliver on CO₂ emission reductions (the Commission's proposal does not propose a cap on emissions for these sectors) and who will bear the costs. Fuel producers will pass on costs to final consumers – this is already happening in some Member States even without the EU-ETS extension being in place as industry is raising prices to profit from the political context, scaring consumers and disingenuously blaming the European Green Deal (EGD). These price rises are feeding through to consumers who often have low short-term ability to adjust (i.e. low 'elasticity'). On top of that, consumers' adaptability to energy prices varies a lot across the EU and largely depends on the households' wealth.

Energy policy is by far and large in the hands of national governments (as established in the EU Treaty) and ultimately influenced by vested interests that may or may not have consumers' interest as a prime interest. As a result, there is a risk that some national governments will not do enough for the common good and for citizens. Furthermore, political uncertainty over national budget decisions – with many important upcoming national elections - and over the redistribution of EU finance (Social Climate Fund, ETS revenues, CBAM revenues etc.) risks putting the burden on society and heavily hitting the most vulnerable, well before any effective emission reductions will take place and the Social Climate Fund would kick in. Consequently, it is crucial that these social, financial and environmental risks are fully taken into account at EU level.

We therefore call upon the Environment Council to:

- Ensure that if the EU-ETS instrument proves insufficiently effective to drive emission reductions in the energy and transport sectors or if there is insufficient support for the instrument, that due attention is given to other existing regulatory instruments in the Fit for 55 Package (Energy Tax Directive (ETD), RED, EED, CO2 standards for cars & vans, EPBD), the EU Renovation Wave and relevant other EU regulation such as the taxonomy or state aid rules to drive emission reductions quickly and avoid social impacts;
- Ensure that the EU-ETS for buildings and transport is consistent and coherent with the review of the Energy Tax Directive – i.e. avoids loopholes and exemptions that can undermine the instruments' reach and impact;
- Commit to carbon pricing for all energy uses to be an integral part of EU legislation regardless of which instrument is finally chosen;
- Remove environmentally harmful subsidies and fast-track support schemes to enable households to transition to sustainable solutions for heating and for transport at both EU and national level – this would strengthen the EU-ETS and reduce risks of social impact and hence public resistance;
- Ensure that national measures are quickly put in place to so that there are readily available alternative options for households to respond to and to avoid potential price impacts – i.e. access to heat pumps, solar thermal and PV, battery storage, renovation and insulation for buildings, quality public transport and e-vehicles, complemented by improved infrastructure for active mobility such as cycling and walking. If these were in place, it would mitigate some of the above-mentioned social risks of the EU-ETS and avoid cost-impacts to households;
- Make sure that a solid social package (Social Climate Fund and other financial resources) is agreed well before the revised Directive comes into force to apply the 'polluter pays principle' fairly and to avoid society having to bear the costs of poor political decisions to keep fossil fuels in the economy (see point 6). The Social Climate fund should be supported independent of the EU-ETS II outcome.

Please also see [the EEB's main asks for the Fit for 55 Package- A package fit for the planet and fair to society, and the EEB's assessment of the Fit for 55 Package.](#)

3. Fit for 55 package: Revision of Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 (ESR)

The proposal on effort-sharing aims to increase the national binding targets for Member States to contribute to an EU-wide Effort Sharing Regulation (ESR) target that has been increased to 40% emissions reductions by 2030. However, the proposal does not lead to the changes in the ESR that are required to limit global warming to +1.5°C compared to pre-industrial levels. The new national targets are not enough to contribute to the 65% GHG emission reductions that are needed by 2030. Moreover, the national binding targets risk becoming a bargaining point with Member States that could lead to an insufficient level of climate action and unwanted trade-offs. Arguments on cost efficiency and fairness between Member States should not undermine the necessary climate action. The interaction between the ESR and the ETS for buildings and transport is still not clear and an impact assessment of how the carbon price for these sectors will evolve and the related social impacts is required. Until today, the agricultural sector has only contributed 1% to the former 30% reduction target of the ESR and the Commission's proposal provides another free pass for non-CO₂ agricultural emissions. Only a sectoral target for non-CO₂ agricultural emissions, accompanied by the development of sectoral climate neutrality roadmaps, will provide the right incentive for a transformative agenda in agriculture.

We therefore call upon the Environment Council to:

- Increase the EU target from 40% to 50% emissions reduction and increase national targets accordingly to align them to the effort needed to have more chance to stay under 1.5°C of warming, which has been confirmed by the IPCC as our safety threshold;
- Improve the integrity of the 2030 target by establishing a single, linear trajectory for emissions reduction based on a 2018-2020 baseline, to prevent a 'Covid dividend';
- Introduce stricter rules on banking, trading and borrowing among Member States, remove the flexibilities with the ETS and LULUCF sectors and set stronger mechanisms to penalise non-compliance by Member States;
- Establish a new binding EU-level minimum contribution to emissions reductions by the agriculture sector of at least 20% by 2030 compared to 2005 levels;
- Demand that the European Commission develops sectoral decarbonisation roadmaps for the effort sharing sectors to clarify their contribution to the Union's climate neutrality target;
- Introduce a right for the public to access national courts to enforce compliance and add a direct reference to the Aarhus Convention;
- Set a framework for binding EU and national emissions reductions targets beyond 2030, on a five-year cycle.

For more details on agricultural emissions, please see: [EEB Beyond Net zero emissions in agriculture, the EEB's main asks for the Fit for 55 Package- A package fit for the planet and fair to society](#), and [the EEB's assessment of the Fit for 55 Package](#).

4. Fit for 55 package: Revision of Regulation (EU) 2018/841 on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF)

The proposed revision of the land use, land use change and forestry (LULUCF) Regulation will progressively change the architecture and scope of the Regulation with small positive elements. The European Commission suggests reaching an overall EU target of net GHG removals of 310 million tonnes of CO₂ equivalent that will be distributed between Member States as annual national targets for the period of 2026-2030. While the introduction of annual national targets from 2026 goes in the right direction to increase removals in the LULUCF sector, we regret the timid level of the Union target. Managed croplands and grasslands accounted for around 50 million tonnes of CO₂ in the EU-27 in 2019. These emissions can be brought to net-zero by 2030 by promoting agroecological practices, restoring peatlands, deploying hedges and agroforestry on croplands and grasslands.

From 2031 onwards, the Commission proposes to expand the scope of the Regulation to include non-CO₂ emissions from the agricultural sector, becoming a new Agriculture, Forestry and Land Use (AFOLU) policy instrument. This AFOLU sector would then have to reach net-zero emissions by 2035 for the EU as a whole. This objective lacks ambition and gives a dangerous free pass to the agricultural sector to keep its emissions constant and 'hide' behind the large forest sink.

We therefore call upon the Environment Council to:

- Promote a new governance model that reconnects agricultural activities and land management and fully accounts for the interdependency between climate and biodiversity objectives;
- Promote a higher EU target of net GHG removals to be achieved by 2030;
- Set a new binding EU-level target to bring emissions from croplands and grasslands down to net-zero by 2030;
- Establish a firewall between agriculture and forestry in the AFOLU pillar, by introducing a binding EU-wide target for all agricultural emissions (CO₂ and non-CO₂) by 2035.

For more details, see also the EEB's [Beyond Net Zero Emissions in Agriculture](#) and [the EEB's main asks for the Fit for 55 Package- A package fit for the planet and fair to society](#)

5. Fit for 55 package: Revision of Regulation (EU) 2019/631 setting CO₂ emission performance standards for new passenger cars and for new light commercial vehicles

The Regulation 2019/631 and associated commitments were set during the Juncker Commission period and thus before the EU commitments for a carbon-neutral Europe, before the -55% GHG reduction commitment, and before the ever more dramatic and direct evidence of the climate crisis, as seen this summer, with floods, fires and storms, and the latest [IPPC Sixth Assessment Report](#) underlining the dramatic challenges facing society to avoid catastrophic climate change. The Regulation was also negotiated during a time when there were far lower shares of electric vehicles on the market and there was a far lower availability of 'zero emissions' vehicles than now. It is therefore both essential that the commitments on CO₂ emissions on cars and vans are tightened, and possible to do so, given the fast-evolving market. It is also essential for EU automotive manufacturers to move from a defensive position that enabled Toyota, Tesla and Chinese bus manufacturers to take the

market leadership on hybrids and electrics and embrace a more proactive and progressive strategy to ensure due market share and, over time, leadership in the market for 'zero emissions' vehicles.

We therefore call upon the Environment Council to:

- Promote tougher CO₂ regulation on cars and vans and encourage commitments to stop fossil-fuelled transport, in particular by strengthening new EU fleet-wide CO₂ emission performance standards for new registered cars under Regulation 2019/631, increasing the 2025 reduction target to -25% (from -15%), setting a -40% reduction target for 2027, and strengthening the 2030 target to at least -65% (up from the current target of 37.5%);
- Set an EU-wide phase-out date for the sale of new internal combustion engine (ICE) cars, no later than 2035;
- Request that e-cars emissions standards apply as minimal performance standards for any future national support schemes financed with EU funds;
- Promote national enabling measures to facilitate the transport transition – e.g. electric charging infrastructure to support the transition from fossil to zero-emissions vehicles, complemented by improved public transport to support mobility for all, through city zoning in areas limiting use of ICEs, particularly where there are concerns of air quality and by an earlier national phase-out of ICE sales and registrations, notably for 2030;
- Encourage circular economy practices to reduce the need for virgin lithium, promote resource efficiency, promote public transport and active transport to reduce the total demand for lithium for batteries given the expected explosion in demand for lithium and given that there is no such thing as 'green mining';
- Furthermore, insist on the highest environmental standards for lithium mining domestically (and none to be carried out in Natura 2000 areas) and for imports, avoiding all imports from areas with risks of human rights violations.

For a range of complementary 'asks' and useful supporting facts and arguments, see [T&E's Briefing](#) and the [EEB Briefing](#) on mining.

6. Fit for 55 package: Regulation establishing a Social Climate Fund

The new Fit for 55 package introduces some transformative new measures such as EU-ETS II and the target of having zero emissions transport. Social impacts risk being such that these measures cannot be adopted without safeguards and broad societal support. Thus, the Fit-for-55 package needs to factor in how to have citizens' interests and realities on board. This requires dialogue and funding.

The Social Climate Fund is an essential tool to support low-income households, counterbalance impacts from increased consumer prices for home heating and car fuels and support investments for 2025-2032. It is to be part-financed through EU resources (revenues from the ETS extension from ~25%) and complemented by Member State revenues. Each Member State is required to submit a Social Climate Plan together with updated National Energy and Climate Plans. However, given the scale of fuel poverty, the amount currently proposed (72.2 billion EUR EU contribution and 144.4 bn EUR with 50% national contribution) is far short and also at risk from the potential non-agreement on the ETS extension. Currently, the social fund adopts mainly a 'compensation based' approach rather than investing into empowering citizens to cut their electricity and heating bills. Furthermore, energy poverty is highly gendered, hitting women harder than men in many countries given the particular

challenges of single parents and those above retirement age, who are on average more likely to be women.

We therefore call upon the Environment Council to:

- Explicitly engage citizens across Europe and within Member States to explore and understand the social challenges they face in the climate and ecological transformation – from energy poverty, to access to services (e.g. mobility and heating) – and how best to support them to make the transition (e.g. to be able to invest in renovation and insulation, changing heating systems) and feed this into the political discussions on the Fit-for-55;
- Invest in clear communications and knowledge-building to avoid misinformation on price impacts of the EGD measures and hence social risks of advancing progressive policies and target fake-news that seeks to undermine the EGD;
- Grasp the full potential of the measure by making it the main EU-wide tool to prevent energy poverty while decarbonising building and transport , thus enhancing the important role of the EU in improving citizens' everyday lives;
- Assess whether the estimated financial envelope risks being too low to address widespread social impacts of general rising energy prices as well as those specifically linked to new Fit-for-55 measures;
- Improve the definition of redistribution criteria across Member States to take differences in those providing funds and those receiving funds into account to ensure fairness;
- Add other conditionalities to avoid that money under the Social Climate Fund flow is misused, ensuring that there is no funding for fossil fuels - e.g. no support for coal to gas;
- Consider also the gender aspects of social impacts with an intersectional lens and include specific targets and measures for women and measures to address gender inequalities given the risk that much of the money will go to male-dominated sectors and the higher incidence of fuel poverty among women;
- Ensure that temporary support for paying high energy bills leaves room for structural investments on energy efficiency and renewable heating in order to eradicate energy poverty;
- Enlarge the definition of energy poverty and vulnerable households to capture the diversity of realities across Europe;
- Make sure that the Social Climate Fund is here to stay and can function regardless of the ETS2 evolution;
- Fully earmark social climate funds to buildings and transport;
- Accompany financial instruments with measures to tackle the root causes of energy poverty.

On needed national action, please also see [Coolproducts's GreenHeat4All scenario](#).

7. EU Soil Strategy for 2030

Healthy soils are crucial for biodiversity, the foundation of the food chain and play a key role in tackling the climate crisis. However, 60-70% of the EU's soils are not healthy and soil degradation is costing the EU an estimated €50bn per year.

The EU Soil Strategy, adopted by the European Commission on 17 November 2021, provides a good start to address these challenges with the overarching vision of all soil ecosystems being in healthy condition by 2050 as well as several relevant mid-term objectives. We strongly welcome the commitment from the Commission to propose a Soil Health Law by 2023 and urge all Ministers to support it and engage in its preparation.

We therefore call upon the Environment Council to:

- Take a strong and proactive role at EU level and as Environment Ministers at national level in the preparation of the Council Conclusions on the EU Soil Strategy for 2030 to ensure that the 2050 vision of the Strategy can be met;
- Endorse the entire EU Soil Strategy alongside preparing the implementation work at national level;
- Strongly welcome the Commission's commitment to propose an EU Soil Health Law by 2023 and commit to supporting this law, recognising that the lack of dedicated EU legislation on soil has been one of the major causes for the alarming state of our soils;
- Welcome the proposed inclusion of legally binding targets for the restoration of peatlands in the Commission's proposal for the Nature Restoration Law and proactively start to prepare the ground for the timely adoption of the law through EU and national level deliberations;
- Ensure the integration of soil health in all relevant policies at EU and national level, especially on agriculture.

8. Proposal for a Regulation on minimizing the risk of deforestation and forest degradation associated with products placed on the EU market

The Commission's proposal for a Regulation on deforestation-free products - the Deforestation Regulation - intends to update the current rules under the EU Timber Regulation and the Forest Law Enforcement, Governance and Trade Regulation (FLEGT Regulation). This proposal introduces mandatory due diligence requirements on traders and operators to prove that the products entering or leaving the EU market have not caused deforestation or forest degradation, regardless of where these companies are based. The draft Regulation currently only covers the sale of beef (including leather), soy, palm oil, timber, coffee and cocoa, and their derived products listed in Annex I. Another novel element introduced by the Regulation is the provision for penalties if there are violations.

The draft Regulation introduces a tiered approach on due diligence requirements, based on the country of origin of the materials and products. Yet, no matter the origin, it requires all companies to declare they have carried out due diligence for the import or exports of their goods and to disclose the geolocation of the place of origin. These statements are collected in an online Registry and accessible to companies and national competent authorities. The public also has access to this Registry, although in anonymised form, which limits the opportunity for the public and NGOs to have full transparency of supply chains and to properly carry out a watch-dog function. The need for full transparency for the public is not only necessary as a matter of principle, but would also allow the

public to signal issues to competent authorities which helps them with their monitoring and enforcement functions.

We therefore call upon the Environment Council to:

- Ensure that environmental considerations are at the core of discussion by holding the Council debates in the environmental formation of the Council;
- Include other ecosystems such as grasslands, wetlands and savannahs from the start of the legislation instead of allowing their further degradation by delaying their possible inclusion to a future review;
- Strengthen the human rights dimension of the law by requiring compliance with international human rights standards and not only with national laws on land rights, which may be very weak or inadequate in some countries;
- Extend the scope of the law to cover all relevant products and commodities linked to deforestation, in particular through the inclusion of rubber and maize;
- Close loopholes of the 'low risk' country category by requiring all companies to follow the same rules, thereby also creating a level-playing field, while differences for screening companies by competent authorities based on risk factors could be envisaged;
- Allow the public to access and extract information from the Registry in a non-anonymised form;
- Hold discussions with the Commission to emphasise the need for a robust Sustainable Corporate Governance proposal which will ensure strong and coherent liability rules for companies that fail to comply with the Deforestation Regulation.

9. Shipment of Waste

The European Commission proposal for a revised Waste Shipment Regulation was released on 17 November 2021. Among other improvements, it further restricts the export of EU waste, notably to non-OECD countries, creates a possible scrutiny to OECD countries importing EU waste, restricts drastically the possibility to export for disposal even within the EU, optimises the national reporting systems through digitalization and interoperability, ensures a better publicity of notifications and national decisions and suggests several new provisions to boost enforcement. These deserve to be supported.

However, the Commission proposal still falls short of ensuring that the EU will deal with its own waste, requiring it to prevent waste and to boost its recycling capacity to eventually become a larger producer (and exporter) of recycled materials. The proposal also misses the opportunity to really differentiate between shipments for material reuse and recycling versus shipments for lower forms of recovery. While pointing to a clearer distinction between shipments of items for reuse versus shipments of waste to close a possible loophole for illegal export, the proposal fails to address the issue of the end of life of items shipped for reuse: those reusable items will reach their end of life in receiving countries and the EU's and international polluter pays principle – notably enshrined through Extended Producer Responsibility fees – should be maintained beyond EU boundaries. The proposal also exempts intra EU shipments from a strict application of the Basel amendments on plastic waste, creating a bad precedent in relation to the respect of the Basel Convention.

We therefore call upon the Environment Council to:

- Welcome the improvements proposed by the Commission, especially on export restrictions, import scrutiny, export for disposal limitations, national reporting systems, publicity of national decisions and better enforcement;
- Set similar conditions to scrutinise OECD countries as are set to authorise export to non-OECD countries, notably by requiring the strong evidence that importing countries of EU waste are already capable of dealing with their own equivalent domestic waste using similar standards as EU ones. The EU should not be trading waste with countries that are setting up facilities mostly dedicated to treating EU (or other) imported waste, while neglecting their own domestic streams;
- Establish stronger conditions upon export for energy recovery compared to export for reuse and recycling within OECD countries, possibly by requiring a notification procedure for export for energy recovery, or at least by requiring a publicly available justification that no better sorting and possible recycling was feasible before shipping for energy recovery;
- Seize the unique opportunity of the waste shipment reform to address the end of life of products exported for reuse, notably by asking the Commission to explore how the Extended Producer Responsibility fees could 'follow' the products shipped for reuse, thus helping to ensure a decent collection and treatment of these items when reaching their end of life in importing countries;
- Ensure the full alignment with the Basel amendments on plastic waste by restricting exports without notification, including for intra-EU shipments, to recycling of 'green listed' plastic waste under the Basel Convention, rather than accepting to ship without notification some plastic waste that is not on the Basel green list and not for recycling, but for lower forms of recovery.

Please also see our Meta story on [A Wasted Opportunity To End Europe's Trash Export Crisis](#).

10. Implementation of the EU Biodiversity Strategy for 2030

More than one year ago, Environment Ministers endorsed the EU's Biodiversity Strategy for 2030 and committed to its implementation. The Strategy provides an opportunity for the EU to become nature positive in a collective and coordinated manner by 2030 to also shape the global biodiversity agreements. This implementation of the Strategy requires high-level political will paired with adequate funding and staff capacity – it will not be easy but putting this challenge in relation to the immense challenge of not taking real action now clearly shows the necessity and urgency of solid implementation work at Member State level.

We therefore call upon the Environment Council to:

- Ensure timely Member State level action to implement the commitments of the Biodiversity Strategy at national level by 2030, providing opportunities for collaboration, best-practice learning, healthy peer-pressure and accountability to individual and collective commitments made;
- Demonstrate the necessary high-level political will as well as resources for the national implementation of the Strategy;

- Ensure that where there is lack of progress or where there is a risk of not meeting the commitments of the Strategy, the EU institutions jointly agree on early and adequate corrective action to be taken;
- Ensure significant progress on meeting the 30% protected area target, with a third thereof under strict protection, through the 2022 pledge and review process with a focus on management effectiveness and through a strict interpretation and application of the criteria leading to additional designations and restoration action;
- Start Member State level preparation on the upcoming Nature Restoration Law to ensure swift Council discussions and timely Member State implementation, including through National Restoration Plans;
- Ensure the strong involvement of environment ministries in the work on definitions of primary and old-growth forests and guidelines to closer-to-nature forestry;
- Demand the full implementation of long-standing environmental obligations, particularly under the Birds and Habitats Directives and the Water Framework Directive, investing in the needed capacity and resources to ensure compliance and providing a clear plan towards full compliance.

11. UNFCCC Conference (COP 26) (Glasgow, 31 October - 12 November 2021)

COP26 was to meant to set another landmark after the 2015 Paris Agreement. 2021 has been the year of another painful wake-up call for the planet, reminding us that the climate clock is running even faster than the scientific community had long predicted and people were expecting. During the past summer, extreme and long-lasting episodes of violent rains, floods, heatwaves and fires have taken a heavy toll all over the world on people, nature, goods and critical infrastructure.

The insufficient commitment by world leaders at COP26 is therefore deeply worrying. With the current global emission trend, we are heading towards a +3.2°C global average temperature rise before the end of this century, and commitments at the COP only suggest +2.4°C will be achieved at best with additional commitments. This fundamentally disappointing result was not the only one of the COP.

There was also a governance failure – with on the one hand deeply limited access by youth and civil society, while at the same time the delegation from fossil-fuel companies being larger than any national delegation. There was an additional credibility failure as the goal of developed State Parties to jointly mobilise USD 100 billion per year by 2020 to support developing countries has not yet been met, nor increased in line with responsibilities and the crisis. The COP was therefore a deep disappointment. The only attempt towards somewhat saving grace was that the theoretical commitment to 1.5°C warming was maintained, and that the COP itself recognised that progress was insufficient and agreed a commitment to review national pledges yearly, with the next opportunity at the talks in Egypt. There is, however, no time to keep pushing off hard commitments to save our future.

We therefore call upon the Environment Council to:

- In light of the insufficient contributions made at COP26 to tackle the climate emergency, and given the EU's historic and current responsibilities for global heating, ensure that Europe significantly increases its efforts to make a fair contribution to the global climate challenge to keep temperature rise below 1.5°C with a mitigation effort aligned with science, equity and

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historical responsibility aiming to achieve at least 65% emissions reductions by 2030 and climate neutrality by 2040, by means of a phasing out of fossil fuels by 2040;

- To be credible domestically and internationally, the EU must ensure that its ambition is increased for both the ongoing negotiations on the Fit for 55 Package and subsequent negotiations on the second Fit for 55 Package, across all the different files, as outlined above. The GHG emissions target of '55% net' reductions by 2030 on 1990 levels is not aligned with the 1.5°C commitment under the Paris Agreement;
- Boost local resilience and global justice by providing financial and technical support to countries that are affected by climate change and by developing an international protection scheme for climate change-induced migration;
- Enable youth participation and integrate their views and vision into political decision-making by creating Youth Councils in the EU and Member States; these Youth Councils should gain the status of social partners in the EU and its member states and would liaise with the UN Youth Advisory Group on Climate Change.

See also the EEB's [Building a Paris Agreement Compatible \(PAC\) energy scenario](#) and associated [policy brief, and META article on COP26](#)

12. 15th meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD COP 15.1) (Kunming (hybrid), 11 - 15 October 2021)

The preparation of the Global Biodiversity Framework under the Convention on Biological Diversity has, unfortunately, been further delayed due to the Covid-19 pandemic. Yet, it remains crucial that the EU takes on a leadership role, pushing for an ambitious post-2020 Global Biodiversity Framework. However, for this to be credible, the EU's global leadership role must be backed up by adequate action and demonstrable progress to protect and restore nature at home, address key drivers of biodiversity loss and include the drastic reduction of the EU's global ecological footprint.

We therefore call upon the Environment Council to:

- Adopt strong Council Conclusions to best prepare the EU to take a leadership role at the second phase of the CBD COP 15, aiming to establish a global network of effectively managed protected marine, freshwater and terrestrial areas, covering 30% of the planet in full respect of human right.

13. Seventh Session of the Meeting of the Parties to the Aarhus Convention, 18-20 October 2021

At the 7th session of the Meeting of the Parties (MoP-7) to the Aarhus Convention, the EU created a scandal when it managed to block the endorsement of one of the findings of the Aarhus Convention Compliance Committee against itself, this time in relation to Communication ACCC/C/2015/128. The findings of non-compliance in this case were based on the insufficient possibilities for access to justice at the level of the EU institutions in relation to state aid decisions. This was only the second time ever that the MoP was unable to endorse the Committee's findings of non-compliance, the first time having also been due to the intransigence of the EU: at MoP-6 in September 2017, the EU had blocked the endorsement of findings of non-compliance against it in relation to Communication ACCC/C/2008/32. The Meeting of the Parties at MoP-7 deemed the amended Aarhus Regulation that had been agreed

between the Council and Parliament in October 2021 to be a sufficient response to earlier findings of the Aarhus Convention Compliance Committee (). At MoP-7, the EU changed the tactics slightly and instead of blocking the whole decision as had happened at MoP-6, it cherry picked the findings on its own compliance that it could tolerate, and also the one it preferred to postpone (ACCC/C/2015/128)..

At MoP-7, the EU therefore once again failed to stand up for the rule of law when it concerned the behaviour of its own institutions. The hypocrisy of the EU's position was not lost on the other Parties; not least on Belarus which pointed out the double standards of criticizing the Belarussian government's position towards the Compliance Committee while simultaneously refusing to endorse findings against the EU itself. Belarus tried to employ similar arguments as the EU to block the approval of a decision on its own compliance (Decision VII/8c) concerning the liquidation of Belarussian environmental NGO Ecohome. For the first time in the history of the Convention, Parties had to formally vote and ultimately approved the decision against Belarus. Belarus has now threatened to withdraw from the Convention. During the next intersessional period of the Aarhus Convention, the EU has to re-earn the trust of the other parties by fully implementing the findings in case ACCC/C/2015/128, not least so that the strong stance that it should take on Belarus has credibility.

We therefore call upon the Environment Council to:

- Insist that the Commission fully implements the findings in case ACCC/C/2015/128 during the next intersessional period of the Aarhus Convention with the review of the EU's Competition Policy, including with the upcoming review of Commission Guidelines on Horizontal and Vertical Agreements as well as of state aid guidelines;
- Support a strong position on Belarus so that its membership as a Party does not weaken the processes of the Convention, while deploying all necessary diplomatic means to ensure that Belarus remains bound by commitments made under the Convention.

14. Fourth session of the Meeting of the Parties to the Protocol on PRTRs (MoPP 4)

The 4th session of the Meeting of the Parties to the Protocol on Pollutant Release and Transfer Registers (PRTRs) (MoPP4) recognised the importance of PRTRs, notably for contributing to a more transversal perspective for improving tracking of progress towards the delivery of the Sustainable Development Goals and enhanced synergies for the implementation of multilateral environmental agreements (MEAs) and the global promotion of the Protocol. So far, the EU and its Member States have been the parties most opposed to preventing further progress and development of the Protocol, using the excuse of "lack of negotiation mandate". The MoPP4 finally adopted the decision IV/2 on the development of the PRTR (ECE/MP.PRTR/2012/14) and the work-programme 2022-025 (ECE/MP.PRTR2021/13).

The EEB considers that a review of the UNECE PRTR is overdue and should be accompanied by concrete actions to that end at EU level (EU-PRTR), but also by national frontrunner practice. This notably includes the implementation of the recommendations made in the reports of the UNECE PRTR Bureau.

At the same time, the EU-PRTR is under review together with the Industrial Emissions Directive, with proposals expected by the European Commission in March 2022. A strong signal for making the EU enter the digital age and to put policy intentions into practice is needed with a clear statement of support from the Council to that end.

We therefore call upon the Environment Council to:

- Provide the negotiation mandate to the European Commission to develop amendment proposals to the UNECE PRTR Protocol, subject to a formalised and early pre-consultation with civil society interest groups;
- Ensure the Council sends a strong and coherent signal regarding the improvement of the UNECE PRTR Protocol Development, the E-PRTR and associated IED review with a view to:
 - Strengthening the provisions on public access to information and participation in the permitting procedure as well as access to justice;
 - Overhauling reporting requirements and strengthening enforcement (IED Registry / PRTR);
 - Harmonising reporting formats for key IED documents - e.g. IED Electronic Permit Template (EPT) allowing centralised reporting on relevant permit conditions;
 - Developing a centralised and powerful database allowing for the better benchmarking of real-time environmental performance and better use of information for other purposes e.g. BREF reviews (e.g. including site specific resource consumption data and production volumes);
 - Establishing the IED registry – revisited PRTR covering also diffuse emissions from products and enabling progress tracking towards SDG achievement, with proper consultation of end-users. This review shall also include a swift revision of the UNECE Kiev Protocol, the Council should provide a favourable negotiation mandate to that end and organise frequent consultation meetings with interested parties.

For more information please also see the [EEB's input to targeted Stakeholder Survey on E-PRTR review](#), the [EEB's input to E-PRTR inception assessment / UNECE PRTR review](#) and the [statements made by the European EcoForum](#) at the MoPP4.

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,



Jeremy Wates
Secretary General