

**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, 17 March 2022**

Brussels, 8 March 2022

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, including on how a range of items on the agenda are ever more important in light of the Russian invasion of Ukraine – notably making the Fit for 55 package even more important given the multiple benefits of being fossil-fuel independent. Furthermore, we wish to flag that some actors are instrumentalizing concerns about the war to undermine the European Green Deal - as can be seen with attacks on the Emissions Trading System (ETS), also on the Farm to Fork Strategy and the Biodiversity Strategy using arguments of food security concerns. We call upon Environment Ministers to resist those pressures as they do not provide the needed transformative and progressive answers that we need and solutions that exist, and more often reflect private interests or ideological positions rather than the best way forward. 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 17 March Council Agenda. In addition, as there will be COP 4 of the Minamata Convention before the next meeting of the Environment Council, and given its importance to Environment Ministers, we have included a point on Mercury.

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

The Battery Regulation represents a critical file in socio-economic and environmental terms on two levels. Firstly, due to the central role of batteries in global efforts towards decarbonisation, coupled with their significant geopolitical, industrial, and extractive implications. Europe's demand for batteries will grow exponentially to electrify transport, digitalise the economy, and build resilient grids, but without intervention this will come at the cost of new dependencies on critical raw materials and industrial production capacity in third countries.

Secondly, there is a broadly accepted political view that the Battery Regulation will set a blueprint for product policies anticipated to be developed in the context of the Sustainable Products Initiative and the revision of the Ecodesign Directive. It will thus potentially have a spill-over effect for policies touching almost any product on the European market. Both arguments present a strong imperative for a highly ambitious Battery Regulation which should enter into force without delay.

On 9 March, the Battery Regulation report will also be voted upon in plenary in the European Parliament. The ENVI Committee report, which was already voted with an overwhelming majority, will provide the basis for the Parliament's position. It significantly raises the bar compared to the Commission's proposal, showing ambition in key areas including carbon footprint, durability and removability requirements, as well as collection and recycling targets.

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The Council has also refined its position and it is our understanding that the file is a priority for the ongoing French Presidency. Recent positions in the Council tend to show clear improvements in some areas, notably with regard to the delay of application of some requirements. We welcome these steps in the right direction and we urge the Council to pursue a high ambition on this iconic file.

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

- **Avoid unnecessary counter-productive delays and support - at the very least - the timelines proposed by the European Commission.** Further delays will put the EU's objective to cut its emissions by 55% by 2030 at risk;
- **Ensure that batteries of light means of transport (LMT) are properly covered** by key measures including carbon footprinting, durability and recycled content, notably because this product group uses the same cells as electric vehicles (EVs) (18650 and 21700);
- **Make batteries in all consumer electronics and LMTs replaceable by end users** using commonly available tools, and remove the problematic and unnecessary loophole for products used in wet conditions;
- **Make the battery packs in LMT, industrial robots and power tools repairable** by independent operators, including by making spare parts available, and by preventing the use of software locks;
- **Set due diligence requirements** as well as **carbon footprint, performance requirements, and product passports** for all smartphones, e-bikes or cars (i.e. remove the 2kWh threshold);
- **Do not allow the use of Guarantees of Origin as proof of use of renewable energy** for the calculation of battery carbon footprint, and ensure a real-world link between energy use and supply;
- **Establish due diligence requirements in the whole battery value chain** that ensure that economic operators not only address risks but also prevent them. The requirements should be extended to bauxite, iron and copper, which are all key battery metals linked to environmental and human rights abuse;
- **Call for high 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, including an analysis of deposit-return, and the further development of eco-modulation of fees for extended producer responsibility (EPR);
- **Oppose the proposed 3-year delay for battery recycling targets**, and **increase the Lithium recovery target** to 70% from 2026 and 90% from 2030, as well as **the recycling target for other waste batteries** to 70% from 2030;
- Guarantee that value retention for batteries is maximised by including an **obligation to check for the possibility of reuse**;
- **Promote reuse of LMT and EV batteries** by creating conducive framework conditions for reuse companies, particularly through limits on, their 'producer' obligations and through exemptions from EPR charges;
- **Oblige online marketplaces and fulfilment service providers to ensure that there is always an economic operator located in the EU** to guarantee that the batteries they enable the sale of are compliant with European law and that producer and distributor obligations are fulfilled.

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

The conflict in Ukraine is intimately linked to the EU's dependency on fossil fuel imports. More than 40% of gas and close to 30% of crude oil imports come from Russia. This energy dependency has compromised the EU's ability to respond effectively to the Russian government's long-standing violations of human rights, threats to peace and democracy across the region, and its disrespect of the sovereignty rights of its neighbouring countries. On the Russian side, oil and gas provide close to 40% of the federal budget revenue and 60% of exports. The Russian fossil fuel industry is a key provider of the Federation's military budget and has fuelled not only this war but also conflicts in Georgia and Syria.

The crisis underlines the urgent need for Europe to accelerate the transition to self-sufficient and renewable energy sources, and to reduce its energy needs through massive investment in building restoration, energy efficiency measures, public and active transport infrastructures, circular economy efforts, and solutions focused on the sufficiency principle. These together will reduce the EU's dependency on Russian fossil fuels and help restore the EU's political agency. Progressing with an ambitious European Green Deal and Fit-for-55 package is a core part of the solution to energy independence.

The war and the associated price rises, augmented even further beyond the price rises seen before the attacks on Ukraine, underline the fundamental importance of ensuring that fuel poverty be addressed. It is essential that the social dimension and fairness are at the heart of the Fit-for-55 measures and considerations.

There are, however, signs that the current conflict in Ukraine will be instrumentalised by some political and economic forces to threaten the Fit for 55 file and reduce its ambition, particularly as regards the Emissions Trading Scheme (ETS) (both for power and industry and the proposed ETS in the transport and buildings sectors) and the energy files. This would undermine the European Green Deal, and turn a deaf ear towards the reiterated climate change scientific evidence in the [AR6 report](#) recently published by the IPCC, calling again for quick action to avoid the worst impacts of climate change on biodiversity, ecosystems and human communities at global and regional level.

All of society needs to do its part in these difficult times and governments have a particular responsibility to safeguard the common good and to show leadership by example and guidance.

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

- **Rapidly present a strategy for the short term** to cut down energy demand and help all Europeans to save energy, to reduce oil and gas consumption, and to invest more in renewable energy sources and a range of energy efficiency and sufficiency measures, with a view to ending fossil fuel imports from the Russian Federation;
- **Resist pressures to embrace a misleading narrative** which minimises the actual cost of energy (economic, environmental, social) and that conveys a false message to citizens resulting in lack of awareness and resistance to change energy consumption behaviours; instead, engage in negotiations on the Fit-for-55 package with a view to accelerating decarbonization and independence from fossil-fuels;
- **Recognise that a 100% renewables future is needed and possible by 2040** and that the Russia-Ukraine conflict is a stark reminder of the importance of committing to a future beyond fossil fuels;

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- **Recognise that the full and strong Fit-for-55 package of measures is needed** and ensure that no item is either too weak or insufficiently adapted to the current needs as all measures are needed, and they should together add up to more than -55% and help drive independence from fossil-fuels;
- **Resist short-termism and calls for destructive solutions** – such as subsidising wood burning, increasing the EU's coal production and imports, re-opening decommissioned coal plants using domestic coal, increasing oil and gas supplies from alternative import routes (for instance LNG), or allowing more oil and gas extraction in the EU – when other measures are possible to meet demand (renewable energies, improved grid connections and smart grids) or to reduce demand to enable supply-demand match (energy efficiency, use of circular economy solutions, application of many “sufficiency” solutions);
- **Systematically embrace social aspects to avoid fuel poverty** – notably by having a strong **Social Climate Fund** (see further below), operational in a timely manner and supporting poor households with energy efficiency, heating and public mobility, preventing windfall profits for industry and restricting the passing on of costs to households as the combination of additional costs to households and high visible profits to energy companies will be a toxic one and will ignite strong public resistance.

Specific priorities for the various Fit for 55 files on the 17 March 2022 Environment Council agenda are presented in turn below.

Please also see the [EEB Statement on the Russian Invasion of Ukraine](#) and the [Joint Statement by Global Civil Society Organizations to UNEA 5.2 on Ukraine](#):

### 3. 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) is the cornerstone of EU's climate & energy policy. Its revision in the context of the Fit for 55 Package will have to considerably change some of its fundamentals or the instrument will not deliver on its full potential to contribute to meet the 1.5°C target set by the Paris Agreement and considered as our safety threshold.

The ETS needs to set a meaningful price and fully apply the polluter pays principle to accelerate industry decarbonisation. First, it must be safeguarded from political interference, vested interests and speculation. Industry decarbonisation has lost a decade due to low CO<sub>2</sub> prices and free CO<sub>2</sub> permits to the most polluting industries which have generated huge windfall profits. The ETS revenues have been used by the Member States for other purposes than tackling climate change. As [estimated](#), ETS-free-allocation up to 2030 would amount to over €350 billion (in value this equals to half the NextGenerationEU Recovery funds!). The EU cannot afford to spend public money to keep polluting industries alive. Finally, the ETS should no longer function in a silo and must be aligned with the EGD and its zero-pollution and circular economy targets.

Technological options for industrial operators to switch from fossil fuels to sustainable renewable energy and make the most of energy efficiency and circular economy are already there and an

unprecedented amount of finance, both public and private, is available to support their uptake in the EU and help us achieve climate neutrality even before 2050.

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

**Raise its climate ambition**

- Increase the 2030 emissions reduction target for EU ETS sectors to 70%;
- Include municipal waste incineration in the ETS scope immediately;
- Ensure that the ETS Directive delivers an EU-wide coal phase-out by 2030 at the latest and sets a Paris-Agreement-compatible minimum CO<sub>2</sub> price of 104 €/ton CO<sub>2</sub>, notably through a minimum carbon price floor system or the Emission Performance Factor (EPF);
- Increase the target for shipping and extend the ETS to international flights;

**Fully apply the polluter pays principle**

- Remove free allowances and replace them with full auctioning before 2030;
- Phase out compensation for ETS indirect costs (under State aid rules);
- 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;

**Ensure policy coherence with the EGD**

- Make the ETS coherent with the zero-pollution objective and environmental quality standards;
- Include energy efficiency requirements in the ETS by removing 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 100gCO<sub>2</sub>eq/KWh for the power sector applicable by 2030 at the latest, with a directional target value set to 0gCO<sub>2</sub>eq/KWh by 2050;

**Set up strong conditionalities on the use of ETS revenues and include democratic participation provisions**

- 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 industry CO<sub>2</sub> indirect costs);
- Keep fossil fuels out of the financial support under the Modernisation Fund;
- Increase democratic participation and access to justice provisions in the EU ETS.

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**

The Commission's proposal to extend the EU ETS to buildings and transport has merit since it will ensure the contribution of these sectors to achieving the Fit for 55 policy targets and accelerating the

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decarbonisation of the EU's energy supply. It will apply carbon pricing to these sectors and hence potentially lead to important emissions savings. However, the ETS2 will bring along significant environmental, financial and social risks. Therefore, the instrument must be accompanied by strong coherent measures in other Fit for 55-related files such as the Energy Efficiency Directive (EED), Energy performance of buildings directive (EPBD), Renewable Energy Directive (RED) revision, and Cars and CO2 regulation to drive investments in energy savings and sufficiency, circular economy and sustainable renewable energy sources. The short to medium term policy goal is that of decarbonising the energy supply and therefore lowering energy prices as a direct consequence of the uptake of energy efficiency and the phasing out of fossil fuel-based technologies.

Political and public resistance must be addressed through a timely Social Climate Fund that will tackle the short-term immediate price impacts and at the same time support massive investments in decarbonising heating and transport. Fuel suppliers will keep making profits by passing costs on to final consumers who often have low short-term ability to adjust (i.e. low 'elasticity') and insufficient affordable choices when it comes to heating homes or transport. On top of that, consumers' adaptability to energy prices varies a lot across the EU and depends on the households' wealth. Social measures need to be adapted to each specific national context, including gender aspects.

Energy policy is largely in the hands of national governments (as established in the EU Treaties) and influenced by vested interests that may or may not have consumers' interests as a prime concern. The current war in Ukraine will only worsen the picture if the EU does not take bold decisions to reduce its energy dependency on Russian oil and gas and invest instead in the measures mentioned above. 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 the social package of measures to accompany the ETS2 is to be agreed and in place well before the actual legislation comes into effect.

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

- Make the EU-ETS an effective instrument to drive emission reductions in the energy and transport sectors by **preventing windfall profits** from fuel suppliers and **fairly distributing ETS2 costs across society**;
- **Ensure consistency across other relevant regulatory instruments** in the Fit for 55 Package such as the EED, EPBD, RED, ETD, Renovation Wave and, the regulation on CO2 standards for cars and vans as well as related fiscal reforms and 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

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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 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](#), the [EEB's assessment of the Fit for 55 Package](#) and [the EEB Policy Brief on the Renewable Energy Directive from the PAC 2.0 project](#).

#### **4. 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-CO<sub>2</sub> agricultural emissions. Only a sectoral target for non-CO<sub>2</sub> agricultural emissions, accompanied by the development of sectoral climate neutrality roadmaps, will provide the right incentive for a transformative agenda in agriculture. Lastly, there is a need to review the EU Regulation on the Governance of the Energy and Climate Union 2018/1999 according to the new framework to ensure that Member States increase the level of ambition across all the targets well ahead of the planned revision of the National and Energy Climate Plans by 2023.

#### ***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;

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- **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 the obligations 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;
- Call for a proposal to **review the EU Regulation on the Governance of the Energy and Climate Union** by early 2022.

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](#).

## **5. 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 CO<sub>2</sub> 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 CO<sub>2</sub> emissions 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-CO<sub>2</sub> 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;

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- **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 (CO<sub>2</sub> and non-CO<sub>2</sub>) 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](#)

## **6. Fit for 55 package: Revision of Regulation (EU) 2019/631 setting CO<sub>2</sub> emission performance standards for new passenger cars and for new light commercial**

Road transport emissions in the EU account for 71% of all emissions from the transport sector. In some Member States, road transport is a serious climate and environmental concern and actions are lagging far behind what is needed and can be done. The latest IPCC Sixth Assessment Report underlines the dramatic challenges facing society to avoid catastrophic climate change and calls for a swift acceleration of climate action across all sectors. 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 essential that the commitments on CO<sub>2</sub> emissions on cars and vans are tightened to reduce CO<sub>2</sub> and air pollution and allow fuel-cost savings. Since the market is fast-evolving and a large amount of public resources is available (EU Funds, NRRPs) conditions are favourable for a regulatory upgrade.

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

The market mechanism as proposed in the extension of the ETS to transport and buildings (ETS2) should not reduce the ambition of the regulatory framework based on emissions performance standards and should be part of a strategic approach to accelerate the decarbonisation of road transport and contribute to the achievement of national targets under the ESR. Social impacts of the ETS extension to transport must be addressed through a strong social package providing financial support and affordable solutions to transport needs.

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

- Promote **tougher CO<sub>2</sub> regulation on cars and vans** and encourage commitments to stop fossil-fuelled transport, in particular by strengthening new EU fleet-wide CO<sub>2</sub> emission performance standards for new registered cars under Regulation 2019/631, increasing the 2025 reduction target to -30% (from -15%), setting a -45% reduction target for 2027, and strengthening the 2030 target to at least -80% (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 and ideally by 2030 to reduce the EU's reliance on fossil fuels and related dependency on Russian imports;

- Request that **e-cars emission 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 massive quick improvement of public transport (including rail transport) to provide fossil-free solutions at affordable prices and support mobility for all, through city zoning in areas limiting use of ICEs, particularly where there are concerns about air quality, and by an earlier national phase-out of ICE sales and registrations, notably for 2030;
- Take a **holistic approach to road transport decarbonisation** by assessing the interactions between the market mechanism (ETS2) and the regulatory performance-based framework to make the most of the possible synergies and ensure that the “polluter pays principle” is effectively applied;
- Ensure that the **costs of road transport decarbonisation are shared fairly between fuel suppliers and end consumers** to tackle transport constraints (i.e. poor services, individual budgetary constraints and combined effects), **mobility poverty**;
- Address the **gender gap in transport** needs since mobility systems are not gender neutral and show considerable different pattern uses (private cars vs public transport);
- 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’; aim for a 90% recovery target for lithium by 2030 in the new EU Battery Regulation;
- 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.

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

The EEB strongly supports the European Commission’s proposal for a Regulation establishing a Social Climate Fund (SCF). The Social Climate Fund should be the main EU-wide tool to prevent energy poverty while decarbonizing the buildings and transport sectors. The SCF requires, however, a holistic approach to address both the short-term impacts of carbon pricing and the long-term structural investments to decarbonise energy supply in these sectors. It must also address the root causes of energy and mobility poverty.

The SCF proposed by the Commission is mostly based on a ‘compensation’ approach rather than a long-term strategy to support investments to empower citizens to cut their electricity, heating/cooling bills through energy savings and fossil fuel-free technologies and access to more sustainable and affordable transport choices. 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.

The Social Climate Fund can be the catalyst for a true European Climate Pact by showing European citizens what support they are receiving from the European institutions to help them overcome

household budgetary constraints such as paying energy bills or transport use. It should become the main tool to decarbonize the targeted sectors (buildings and transport), working as the envelope of all co-financed projects in these fields and benefitting from end-consumer visibility. This would not only improve the overall evaluation of the policies and the expenditure in these fields but also contribute to make evident the positive role that EU institutions play in the everyday life of Europeans. For this reason, the Social Climate Fund should enter into force and become operational before the ETS extension to building and transport sectors and independently of it.

However, the SCF alone will not be able to address fuel poverty issues in the EU. Member States must do their own part and need to contribute with national budget resources and instruments, such as fiscal reforms and long-term investments in building renovation and public transport, as well as a targeted use of existing EU funding, including under the National Recovery and Resilience Plans.

***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 communication 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 or 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 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](#).

## **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. Among the draft criteria to be taken into account for the risk assessment are also 'armed conflict or presence of sanctions imposed by the United Nations Security Council or the Council of the European Union' (Art.10(2)(e)). 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:***

- 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;
- Ensure that timber and wood exports from the Russian Federation are included in the EU's sanctions (see the [EEB's statement on the Russian invasion of Ukraine](#));

- 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. 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 (NRRPs) are also being integrated into the Semester process. With the Ukrainian crisis, Russian belligerence and President Putin's stated ambition to create a multi-polar world and post liberal era, there is an ever greater need to push for EU energy independence via a carbon-neutral, 100% renewable energy EU, as well as wider resilience vis-à-vis likely affected areas, such as food, wood and other raw materials.

### **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 carbon-neutral, resource-efficient, inclusive and circular economy with independence from Russian (and other) fossil fuel imports and support EU resilience in relation to materials availability. Positive practices that reform environmentally harmful subsidies should be strongly encouraged, and all funds subsidising the import of Russian oil and gas should be stopped. For the longer-term, the option to develop national subsidies accounts under Regulation 691/2011 should be embraced;
- Continue efforts 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 NRRPs, with additional urgency given the Russian war in Ukraine;
- 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 risk jeopardising its green dimension and the Recovery and Resilience Facility's objective to support the green transition;
- 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 and accelerated 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;

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- 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, 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 Presidency<sup>1</sup> 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 8<sup>th</sup> Environment Action Programme (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 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 civil society space is particularly important around the agreement on and implementation of the NRRPs as well as wider Partnership Agreements linked to the MFF. 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.

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



Finally, the Russian-Ukraine crisis underlines the fundamental need to fast track a move to a 100% renewable energy system in Europe to ensure energy independence and avoid financing the Russian war in Ukraine or wider aggression. We have seen efforts to weaken, indeed destroy, civil society in Russia, it is essential that we maintain a strong civil society in Europe. The crisis, with its risks for materials availability and price volatility, reiterates the fundamental need to move towards an energy- and resource-efficient, circular economy and to embrace 'sufficiency' tools. The commitment to a fundamental transition to a zero carbon, resource-efficient, circular economy needs to be accelerated by Semester recommendations and by national policies and be at the heart of the Semester.

## 10. UNEA-5.2 (Nairobi, 28 February - 2 March 2022)

The EEB welcomes the successful closure of the 5<sup>th</sup> UN Environment Assembly including the adoption of a Ministerial Declaration and several substantial resolutions, including the resolution 'End Plastic Pollution' which includes a mandate to set up an International Negotiating Committee (INC) to start negotiating an international, legally binding treaty to curb plastic pollution.

In the run up to UNEA 5, the EEB, together with its member Women Engage for a Common Future (WECF), has facilitated and coordinated a series of international consultations for civil society, focusing on UNEP accredited organisations in the Major Groups and Stakeholders, in collaboration with UN Environment. The series culminated in the Global Major Groups and Stakeholders Forum.

NGOs engaged in the UNEA process also agreed on a [Joint Statement by Global Civil Society Organizations to UNEA 5.2 on Ukraine](#) stressing the impacts of the war on both human wellbeing and the long-lasting impacts on the environment.

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

- **Ensure that the INC will soon be able to take up its work** and to provide support to UN Environment to set up a well-funded secretariat for the INC;
- **Develop a strong position for an ambitious international treaty** that ensures the reduction of virgin plastic production (going beyond a focus on plastic recycling), a phase-out of hazardous chemicals from plastics for a non-toxic circular economy and high standards for product design;
- **Closely consult with environmental NGOs** when developing the EU's negotiating position for the plastics treaty, ensuring a seat at the table for environment NGOs as well as groups representing those communities most affected by plastic pollution including informal waste pickers.

## 11. Revised directive 2008/99/EC on the protection of the environment through criminal law

The EEB strongly supports the European Commission's proposal for a revised directive on the protection of the environment through criminal law.

Interpol and Eurojust have both recorded a major increase in global and European environmental crime without there having been an accompanying increase in convictions. Organised environmental crime is now among the four most lucrative types of crimes internationally and the lack of harmonised rules in this area provides large-scale opportunities for criminals in Europe.

The cost of the restoration of the damage caused by crimes such as the illegal disposal of waste, the illegal trade in timber, and the placing on the market of harmful substances is currently borne by

governments and their taxpayers. Harmonized European-wide minimum requirements are the only way towards making criminals pay for the damage they have caused to society and the environment.

Environmental crime rarely stands alone but is most often combined with other elements of organised crime such as fraud, corruption, money laundering, and forgery. The inherently transborder nature of organised environmental crime in Europe necessitates a European response to ensure that a set of minimum standards prevents criminals from exploiting legal loopholes. The currently enforced directive does not provide these minimum standards and a revision is crucial.

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

- **Support the Commission's proposal** and the additional nine offences added to the scope;
- **Ensure a strengthened system of sanctions** by demanding that sanctions be effective and dissuasive. Minimum levels for maximum fines for legal persons should at least match those in the area of competition law and be set at 15% of total worldwide turnover;
- **Strengthen the reference to Ecocide** in the proposal so that it matches the Union's commitment at international level. Recognizing Ecocide as a criminal offence is a necessary step to protect Europe from the most egregious environmental crimes;
- **Commit to meaningful implementation of the revised directive.** Whereas the currently in force directive on Environmental Crime has been sufficiently transposed in all Member States, the Commission's evaluation of the legislation has shown that the implementation in practice has been ineffective in the fight against organised crime;
- **Commit to meaningful reporting of national crime statistics.** Without a solid factual basis about the national dimension of transborder organised crime it is difficult to create effective enforcement chains at national and European level.

## **12. Mercury – COP4 of the Minamata Convention**

Mercury and its compounds are highly toxic, can damage the nervous system and are particularly harmful to foetal development. Mercury 'travels' globally, bioaccumulates up through the food chain, especially in certain predatory fish, and presents a human exposure risk. The Minamata Convention entered into force on 16 August 2017 and 136 countries have now ratified it, including the EU and 26 of its Member States. The Convention's 4<sup>th</sup> Conference of the Parties (COP4) started on 1-5 November 2021 in virtual form and will be followed by a face-to-face meeting in March 2022 in Bali, Indonesia.

On 24 February, the EU has [published](#) its decision to phase out general purpose fluorescent lamps by 2023 under the [RoHS Directive](#). Fluorescent lightbulbs contain mercury, a toxin that has been placed in the top ten worst chemicals for public health by the [WHO](#).

Banning trade and manufacturing of fluorescent lamps is also one of the issues to be discussed at the [4th Conference of the Parties \(COP4\) under the Minamata Convention on Mercury](#), later this month (21 Mar 2022 - 25 Mar 2022) in Bali, Indonesia. In April 2021, the [EU proposed](#) to only ban the trade of halophosphate lamps at global level, but [36 African countries](#) requested a ban of almost all general purpose fluorescent lamps by 2025.

The EU proposal for CoP-4 is no longer aligned with the now widened EU acquis; if the EU position stands, it would allow EU factories to continue exporting these banned products, creating a double standard. This will lead to a continuous cycle of mercury pollution abroad, and it will eventually get back into Europe, given the global travelling capacity of mercury emissions. Such a scenario is also

contradicting the [Chemicals Strategy for Sustainability](#) which states that Europe should “lead by example, and, in line with international commitments, ensure that hazardous chemicals banned in the European Union are not produced for export”.

[The EEB calls](#) for a global approach to prevent the developing world from becoming the dumping ground for mercury-added sales when developed countries phase out mercury-added lamps in their markets. Banning the manufacture and trade of most fluorescent lights, will avoid the use and emissions [of 232 metric tonnes](#) of mercury from lamps and coal fired power stations by 2050. It will also cut the global electricity demand and avoid [3.5 gigatons of CO2 emissions](#) by the same date.

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

- **Promote EU leadership in strengthening the Minamata Convention on Mercury by** supporting the phase out of the manufacture, import and export of more mercury-added products and processes, including batteries, fluorescent lamps, satellite propulsion fuel, polyurethanes, dental amalgam, switches/relays, wheel weights and others.

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. We also firmly believe that in the current context of the Russian war in Ukraine that it is essential for the EU to strengthen its Fit-for-55 package to help obtain energy independence, support EU agency and eliminate the funding of belligerent forces. Similarly, it is vital to stay true to the transformative EGD agenda and promote a carbon neutral, energy- and resource-efficient, circular economy, with a commitment to the Biodiversity, Farm to Fork, and Chemicals for Sustainability Strategies. This will support EU resilience in the face of pressures and create a stronger basis for a future for the youth of today who are arguably going to inherit a world in a much worse state than their elders unless we act decisively. We rely on you.

Yours sincerely,



Jeremy Wates  
Secretary General