

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

Re: Input to the EU Environment Council Meeting, Luxembourg, 28 June 2022

Brussels, 21 June 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 the Fit for 55 package given the multiple benefits of exiting from fossil-fuel dependency on Russia. Furthermore, we wish to underline that some actors are instrumentalizing concerns about the war to undermine the European Green Deal - as can be seen with attacks on the ETS, also on the Farm to Fork Strategy and the Biodiversity Strategy using flawed arguments of food security concerns – and 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 28 June Council Agenda.

1. ETS Revision: Revision of Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading (ETS)

Being a market-based system, the ETS price signal is inevitably subject to the policy landscape and other intangible pushes and pulls. In this sense, its review should strengthen the safeguards from political interference, vested interests and speculation in order to increase trust in the EU carbon market. Due to this intrinsic volatility, the ETS should be paired with a regulatory framework able to set mandatory GHG emission limits with clear intermediate steppingstones able to lead carbon-intensive industries towards climate neutrality. This would lock the EU climate ambition from here until 2050, irrespective of possible changes in terms of policy priorities. Secondly, due to the mechanism of free allocations, several industrial sectors have the right to pollute for free. As estimated, the ETS free-allocation up to 2030 would amount to over €350 billion (i.e. by comparison, in value this equals to half the Next Generation EU Recovery funds). The EU cannot afford anymore to spend huge amounts of public money only for the sake of keeping polluting industries alive without receiving anything in exchange.

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.

European Environmental Bureau

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

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With respect to ETS 1 - Power, industry, aviation and shipping - we call upon the Environment Council to:

Raise its climate ambition

- **Increase the 2030 emissions reduction target** for EU ETS sectors to 70%;
- Include immediately municipal, industrial and hazardous **waste incinerators** in the ETS scope;
- 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 104 €/ton CO₂, 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;
- Ensure that allocations put in the market from the **Market Stability Reserve** do not lower the ETS cost and are not used to fund other policy needs (see point further below);
- Increase the size of the **Modernisation Fund** and ensure its full coherence with the EGD objectives by excluding any fossil fuel project from its scope;

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;
- Define a share of **ETS I revenues** to be conveyed into the SCF;
- **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 100gCO₂eq/KWh** for the power sector applicable by 2030 at the latest, with a directional target value set to 0gCO₂eq/KWh by 2050;
- **Remove Article 9(1) of the Industrial Emissions Directive**, a limitation inserted by Article 26 of the EU ETS Directive – national permit writers should retain the possibility to set more effective and legally more certain measures in support of climate protection;

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 CO₂ or indirect costs for industry).

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](#).

ETS 2 - Buildings and transport

The Commission's proposal to extend the EU ETS to buildings and transport has its merit since it would ensure the contribution of these sectors to achieving the Fit for 55 policy targets and accelerating the 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 coherent strong 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) and transport 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 Treaty) and influenced by vested interests that may or may not have consumers' interest as a prime interest. 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. The heating and transport markets are the main markets for fossil supplies and decarbonisation must strongly accelerate in these two sectors first and foremost. 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 – 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 ETS 2 is to be agreed well before the actual legislation comes into place.

We therefore call upon the Environment Council to:

- Maintain the scope of ETS 2 for heating and transport as in the original proposal of the Commission;
- 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 ETS 2 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** being 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 and should receive part of the EU ETS I revenues on the basis that already now a growing share of European consumers are paying for the ETS through their heating and transport bills, namely those using heat pumps and E-cars. This should be particularly the case if ETS 2 is dropped from heating and mobility.

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](#).

2. Revision of Decision (EU) 2015/1814 (market stability reserve)

As noted in [our joint letter with CAN Europe, Carbon Market Watch and WWF](#), we have grave concerns about the European Commission's proposal to generate EUR 20 billion from the auctioning of allowances held in the Market Stability Reserve (MSR) of the EU Emissions Trading System (ETS) in order to finance measures under the REPowerEU plan, including gas and oil infrastructure. It would have severe detrimental impacts on the EU ETS and its ability to reduce emissions:

- Releasing 200-250 million allowances from the reserve which otherwise would have been cancelled means allowing for the **release of an equal amount of additional emissions into the atmosphere**, reversing important efforts to strengthen the ambition of the ETS in light of its instrumental role to combat the aggravating climate crisis.
- The revenue generated would contribute to a EUR 225 billion portfolio dedicated to finance measures proposed under the REPowerEU plan. It is expected that EUR 11.5 billion will be used as **investments in fossil gas and oil infrastructure** which means cementing an unacceptable lock-in into fossil infrastructure for the next decades.
- Allowing the generated revenue to be used inter alia for fossil gas and oil infrastructure funding is in **blatant contradiction to the objectives of the MSR and the ETS and the Commission's own revision proposals to strengthen the criteria for revenue use**, currently discussed in the negotiations under the Fit For 55 package.
- The decision to politically interfere in the market with the primary objective to generate extra funding would set a dangerous precedent and **fundamentally undermine the credibility of the carbon market**. EUA prices already dropped in response to the Commission's amendment proposal by -12.5%. Such impacts also reduce the overall revenue envelope for Member States generated by the EU ETS, thus only **exacerbating the EUR 2,4 trillion investment gap for reaching the EU's climate targets and financing the energy transition**.

We therefore call upon the Environment Council to:

- Reject this proposal, as it is not only undermining our long-term objective of reaching sustainable energy security, but also in direct contradiction to the primary objective of the European Green Deal and limiting temperature increase to 1.5°C, and instead to support steps to mobilise alternative funding for the required measures in a way that does not undermine core EU climate policy.

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)

This proposal increases the binding targets for Member States to contribute to an EU-wide Effort Sharing Regulation (ESR) to 40% emissions reductions by 2030 (compared to 1990 levels for the emissions covered by the ESR). This is insufficient to limit global warming to +1.5°C compared to pre-industrial levels, which requires 65% GHG emission reductions across the economy by 2030. The ambition must therefore be increased, and 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

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impacts is required. Furthermore, emissions from the agriculture sector only reduced by 1% since 2005 and the Commission's proposal provides another free pass for this sector.

We therefore call upon the Environment Council to:

- **Increase the EU target for ESR-related emissions from 40% to 50% emissions reduction**, and increase national targets accordingly to align them to the effort needed 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 emissions reduction target for the agriculture sector** or for all non-CO₂ emissions under the ESR, in line with the proposals of the European Parliament, 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;
- **Support the right of access to justice for the public** in order to fulfil international obligations under the Aarhus Convention;
- **Set a framework for setting binding EU and national emissions reductions targets beyond 2030**, on a five-year cycle, as soon as possible;
- **Amend the EU Regulation on the Governance of the Energy and Climate Union 2018/1999** through the ESR to strengthen the provisions on National Energy and Climate Plans and speed up implementation.

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 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-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 could give 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;
- **Endorse 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;
- **Support the right of access to justice for the public** in order to fulfil international obligations under the Aarhus Convention;
- **Improve monitoring and reporting rules** to require all Member States to use Tier 3 methodologies based on the latest IPCC guidance for all emissions sources and sinks.

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

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 CO₂ emissions on cars and vans are tightened to reduce CO₂ 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 embrace a more proactive and progressive strategy to ensure due market share and, over time, leadership in the market for 'zero emissions' vehicles. In particular, measures to make sure that the swift uptake of the e-vehicles comes alongside a total makeover of the supply chain must be in place

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to override the opposition of certain Member States where spare parts production is a major business sectors. 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.

Finally, the Russian war in Ukraine has shown how dependency on Russian fossil fuels has funded the Kremlin's ability to wage war and it is imperative that the EU fast tracks its transition away from fossil fuels and dependency on regimes which seek to undermine the EU or have questionable human rights records, or be dependent on environmentally destructive sources of fuel.

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 -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 support the independence of the EU from fossil fuel dependency and related dependency on Russian imports;
- 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 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 of 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 (ETS 2) 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) and **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’, and aim for a 90% recovery target for lithium by 2030 in the new EU Battery Regulation;

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- 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 EEB strongly supports the European Commission’s proposal for a Regulation establishing a Social Climate Fund. The Social Climate Fund should be the main EU-wide tool to prevent energy poverty while decarbonizing the buildings and transport sectors and drive transformative change for a social just transition in the medium to long term. 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. Energy and mobility poverty are structural injustices. It should primarily target those citizens that are most impacted by the transition (such as low-income households, unemployed, people with disabilities) to be able to tackle deep socioeconomic inequalities.

Furthermore, energy and mobility 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 on extremely sensitive households’ 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.

Besides, since today many consumers are already paying higher fuel tariffs for the ETS through electrified heating and transport, the SCF fund should also be partly funded by ETS I, in compensation for those extra costs. 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 with 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 buildings 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 and the dramatic effects of the Russian war in Ukraine – and increase the funding level, making use of other resources including potential monies left over from NextGenEU;
- **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 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 and establish clear requirements for the identification of initiatives which should be supported in order to help regions and local communities in transitioning from fossil fuel based energy;
- **Strengthen the Social Climate Fund** so that it can drive transformative change for a social just transition in the medium to long term;
- **Make sure that the Social Climate Fund is here to stay** and can function regardless of the ETS 2 evolution; funding for the SCF should come from sustainable sources of revenue;
- **Fully earmark social climate funds** to buildings and transport;
- Accompany financial instruments with measures to **tackle the root causes of energy and mobility poverty.**

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

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

The EEB and many other civil society organisations have welcomed the European Commission's proposal for a new EU Deforestation Regulation. This proposal represents an essential step forward in global environmental governance and a huge opportunity to minimise the EU's impacts on people and planet in line with its commitments on climate, biodiversity and human rights.

The Regulation 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.

However, the Environment Council should improve several essential elements of the Commission's proposal and deliver a strong and ambitious law that meets the high expectations of EU citizens.

We therefore call upon the Environment Council to:

- **Include strong sustainability requirements** based on objective criteria that ensure that no goods linked to deforestation or forest degradation, as already foreseen in the Commission's proposal, but also linked to the conversion of other natural ecosystems or human rights violations, may be placed on or exported from the EU market. Requirements should be clearly described with objective, science-based criteria, use clear and comprehensive definitions, and apply in addition to applicable laws of the country of production. Requirements should apply equally to EU exports;
- **Ensure that timber and wood exports from the Russian Federation are included** in the EU's sanctions (see the [Joint NGO letter: Choosing the Right Path at this Turning Point in History](#) and [EEB's statement on the Russian invasion of Ukraine](#));
- **Strengthen the definitions for forests, deforestation and forest degradation**, which make a clear distinction between natural forests and tree plantations. The proposal defines "deforestation" as conversion of forest to agricultural use, thereby excluding other causes of deforestation and the conversion of forests to tree plantations. Instead, it should refer to the conversion of forest to any other land use, including in the context of forestry (whether in the form of planted forests or tree plantations), mining and infrastructure related to commodity production. The definition of "forest degradation" should aim at preserving the ability of forests to support biodiversity and protect climate systems, and should prevent any changes within a natural ecosystem that significantly and negatively affect its species composition, structure, and/or function, irrespective of the cause;
- **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;
- **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;

- **Extend the scope of the law to cover all relevant products and commodities linked to deforestation**, in particular through the inclusion of livestock, 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;
- **Remove 'simplified' due diligence** as the same due diligence obligations should apply to all operators regardless of size, trade volumes or the apparent risk level of the country or area of production;
- **Introduce stronger transparency requirements**, including supply chain transparency, public reporting on due diligence procedures and outcomes for all operators (no exemptions for SMEs), greater disclosure in due diligence statements, including information on an operator's supply chain and the risks identified during the due diligence process, unrestricted public access to due diligence statements, a public list of non-compliant actors and provision for the public to access and extract information from the Registry in a non-anonymised form.

8. Regulation on transboundary transfers of waste

The revised Waste Shipment Regulation proposal tabled in November 2021 by the European Commission is a welcome step forward, but more needs to be done to reduce the amount and mitigate the consequences of EU waste exports. Europe should reuse and recycle its own waste as close to the source as possible, creating local employment. Waste, notably plastic waste, should not be shipped to non-EU countries, being OECD or non-OECD countries, without a prior thorough scrutiny about equivalent environmentally sound management standards and adequate recycling infrastructure able to deal with domestic waste in the first place, rather than only established to treat imported waste.

Strict enforcement of the new amendments to the Basel Convention is crucial even within the EU, and we cannot maintain materials being listed for potential future restrictions such as PVC or PFAS-containing materials on the EU green list of waste.

The text also rightly aims to bring EU waste shipment policy more in line with the waste treatment hierarchy and sound environmental waste management, two guiding principles of EU waste policy. However, derogations and insufficient distinction between material recycling and lower forms of recovery represent a significant risk of watering down this intention.

Finally, the Commission proposal plans to better address the possible confusion between waste and reuse. While this is a much-needed action to mitigate the potential loophole of using fake reuse status to illegally export waste, this stays blind on the consequences of the end-of-life stage of legally exported products for reuse in receiving countries if those are deprived of Extended Producer Responsibility schemes or if fees paid by EU consumers under EPR schemes do not follow the products shipped for reuse.

We therefore call upon the Environment Council to:

- **Propose a ban by default on EU waste export**, starting with plastic waste, and condition any shipment to OECD or non-OECD countries to a prior scrutiny process as suggested not only for non-OECD countries and involving notably local CSOs of destination countries;

- **A stricter application of the Basel Convention amendments on plastic waste**, even for intra-EU shipment. It is counter-productive and provides a bad precedent at international level to create a specific EU48 entry, instead of the Y48 entry planned by the Basel Convention, notably as this EU48 entry includes very problematic plastic waste, deserving a specific consideration, such as PVC and PTFE, which are in parallel listed for future chemical restrictions under [the list established by the EU Commission services](#);
- **A strict application of the waste hierarchy to European waste shipments**
In order to serve a genuine circular economy: the European Union should apply to its waste shipment procedures the same guidelines it has for waste management. There should be a better division of waste shipments according to the type of operation for which it is destined. Prioritising and facilitating shipments for reuse and recycling and conditioning better shipments for energy recovery and other types of low recovery forms should be considered. E.g.: The subordination of any intra-EU shipment for energy recovery to a public assessment that no better option is available. This would act as a way to disincentivise shipment for energy recovery and oblige companies to thoroughly investigate possible alternative waste treatment more in line with the circular economy.
- **A complete public traceability for waste trade within the European Union.** No waste should ever be shipped, either for disposal, recovery or recycling, without having its journey and the relevant shipment actors involved made publicly available. No shipment should be allowed if a full traceability is not enforced, while keeping confidential pure commercial transactions that do not affect the shipment information;
- **The facilitation of intra-EU shipments for reuse or repair, based on strong evidence.** Those shipments should be eased, provided there is clear evidence that shipped items will actually be reused (e.g. functionality test) or repaired (e.g. warranty period, part of after sales contract, reaching a registered repairer/charity organisation). Shipments for reuse and repair outside the EU should be allowed under even stricter conditions. In addition to rules applying at EU level, shipments for reuse and repair outside EU should notably be handled by authorized and certified trading, reusing and repairing schemes also recognized by the authorities of the importing country. The potential EPR fees associated with the products in order to ensure its sound end of life management should remain associated with the products shipped for reuse, in order to help secure a sound waste treatment in the receiving countries. Being within or outside EU, any shipment for reuse and repair should come with information on substances contained in products and materials, as well as repair instructions so that all economic actors along the (global) supply chain and potentially all enforcement authorities can know how to best handle the products and materials of concern. The provision of detailed information on products to be reused or repaired should be part of the condition to allow its shipment. This would align with the product information system to be set at EU level.

9. Miscellaneous

9a Revision of the fluorinated greenhouse gas regulations

The EEB welcomes the revision of the F-gas regulation that aligns it with the Montreal Protocol. However, there is room for further fine tuning to align it with the Paris Agreement and to transform this piece of legislation to further support the onshoring of critical production chains such as aircon and heat pumps and continued technological leadership in cold chain technology.

We therefore call upon the Environment Council to:

- **Accelerate the HFC Phase-Down Based on Maximum Technical Feasibility:** Accelerating the HFC phase-down in the EU will help set the stage for negotiating an acceleration of the Kigali Amendment, but the EU should go further than option 2 chosen by the Commission and adjust the phase-down according to the maximum technical feasibility (Option 3) given that this is the cheapest climate measure in the EU.
- **Align HFC Production Steps with Consumption:** The Commission proposal outlines differentiated schedules for HFC production and consumption (placing on the market), allowing production to lag significantly behind consumption: this is not in line with what is included in the Montreal Protocol which has historically aligned the baselines and schedules for ODS production and consumption to ensure consistent, proportionate reductions in global production and global consumption.
- **Introduce Annex IV Bans on New HFC-Based Equipment:** Placing on the market (POM) prohibitions in Annex IV, also called bans, are the most effective measure in the EU F-Gas Regulation, providing clear market signals with little administrative burden and costs; Annex IV should be amended with a blanket ban on all new HFC-based equipment by 2030, to coincide with the HFC phase-down and ensure adequate HFCs for servicing requirements, and the standard GWP threshold of 150 should be eliminated and replaced with a GWP threshold of 5 in all HFC-related Annex IV prohibitions.
- **Launch an emergency EU-Wide online training for professionals** in the cold chain based on all refrigerants available on the market to overcome the lack of installers in the market and achieve rapidly the objective of the REPowerEU.

9b Revision of the Industrial Emissions Directive (IED) and Industrial Emissions Portal Regulation

The EEB believes that the revised IED proposal is not yet made fit for purpose to clean up industrial production and generate transformative change towards a circular, decarbonised and zero-pollution industry. Many important aspects such as output-oriented performance expectations from the EU's industrial transformation are either shifted for a future review or left for implementation measures escaping public scrutiny. For the related Industrial Emissions Portal Regulation (ex-PRTR), the proposal misses the opportunity to make the best use of information for other purposes such as benchmarking (of operators and permit writers permitting ambition) and compliance promotion. *See NGO preliminary assessment here <https://eeb.org/library/ngo-preliminary-assessment-of-the-european-commissions-proposal-for-revised-ied-and-e-prtr/>*

We therefore call upon the Environment Council to:

In relation to the revised IED proposal:

- Extend its scope to capture additional major pollution sources and issues, e.g. intensive aquaculture, greenhouse gases, whilst not losing the focus on the intended outputs of the activity. For intensive livestock, the setback in regard to the currently covered pigs and poultry sector (Annex I, Section 6.6) which would no longer fall under the more protective requirements under Chapter II of the IED must be resisted. Measures that would deliver on pollution prevention from those activities must be set now, not left to future delegated acts;
- Extend and update the EU 'safety net' requirements for preventing impacts from the most polluting activities, accelerate coal combustion phase out by 2030 by aligning Annex V ELVs to the strictest 2017 LCP BREF BAT conclusions and accelerate fossil gas phase out by 2035 at the latest, notably through the setting of mandatory GHG performance limits set to 100gCO₂eq/KWh by 2035;
- Ensure for a "combined approach" of strong carbon pricing via the EU ETS to deliver in combination with performance-based standards. Delete Article 9(1) and replace by dedicated decarbonisation measures e.g. electrification of energy-intensive industries, fuel switching minimal net efficiency levels for combustion activities as part of mandatory elements of the proposed 'transformation plans';
- Strengthen further the conditionalities for compliance with Environmental Quality Standards e.g. by explicitly referring to the WHO air quality guidelines, the NECPs, climate protection;
- Tighten up further the default approach to the strictest possible emission limit / environmental performance limit values, set a clear compliance deadline by when this approach is to be complied with regarding the activities subject to BAT Conclusions;
- Change to a 'forward looking' BAT determination procedure to promote the industrial activity with the least environmental impact for the provision of a given product/service based on technical feasibility- e.g. for energy production, water quality and supply, protein production, resource management;
- Set for a decision tree as to the use of both renewable hydrogen and sustainable biomethane to hard-to-abate industrial emissions and creating a coherent infrastructure framework;
- Supporting resilience and material efficiency throughout the value chain;
- Strengthening the provisions on public access to information and participation in the permitting procedure as well as on access to justice;
- Strengthen further the provisions on sanctions (minimal sanctions), support a strong compensation regime with maintaining the presumption of "guilty of harm caused by industrial pollution" on the operators.

In relation to the Industrial Emissions Portal (ex-PRTR):

Ensure that digital reporting obligations serve progress on environmental performance and accountability of decision making, send a strong and coherent signal regarding the improvement of the UNECE PRTR Protocol Development, the E-PRTR and associated IED review notably by:

European Environmental Bureau

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

*International non-profit association • Association internationale sans but lucratif (AISBL) • EC register for interest representatives:
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- Providing a single access platform and database(s) for environmental information for benchmarking of performance, improved information exchange for EU standards-making, improved information to the public and triggering enforcement action;
- Overhauling reporting requirements and harmonising reporting formats for key IED documents - e.g. IED Electronic Permit Template (EPT) and IED annual compliance report allowing centralised reporting on relevant permit conditions and performance;
- Developing a centralised and powerful database “Industrial Pollution Prevention Portal” allowing for the better benchmarking of real-time environmental performance and better use of information for other purposes e.g. BREF reviews (e.g. by including site-specific resource consumption data and production volumes, ensure that performance information generated under other IED provisions such as the EMS are directly integrated in that portal);
- Delete reporting thresholds from its Annex II, extend the list of pollutants e.g. the substances with SVHC properties / relevant hazardous substances, direct listing of the other substances subject to reporting under the EU acquis;
- Improve reporting on diffuse emissions from products and enabling progress tracking towards Sustainable Development Goals achievement, with systematic and formalised consultation of end-users;
- Lead by example and implement recommendations made in the reports of the UNECE PRTR Bureau and ensure that the Council Working Parties systematically allow for early and effective pre-consultation with civil society interest groups like the EU ECO Forum.

The Environment Council should also provide for a political commitment to review the Commission Expert Groups Rules and Council work practice to ensure full transparency and accountability to the ‘Green Oath’, improving the balance of public vs private interest stakeholder representation, setting Key Performance Indicators to track progress and supporting accountability in decision-making.

9c Revision of the regulation on the eco-design of products

The EEB welcomes the new Ecodesign for Sustainable Products Regulation. This is a potential game changer to make sustainable products the norm and the default option for all. The EEB will shortly release a paper with regard to the main improvements to make it work with the necessary effectiveness and sustainability ambition. The paper will be uploaded to the [EEB publications page](#) after 22 June.

9d Nature Restoration Objectives Regulation

It is really important that the European Commission finally publishes its proposal for the Nature Restoration Law setting legally binding nature restoration targets on 22 June which would allow to have a very first informal discussions about the Nature Restoration Law proposal during this Environment Council. If done right, this Law has immense potential to address the biodiversity and climate crises in a synergistic way. Support from Environment Ministers and a timely adoption of the Law will be crucial to make the most of the potential this new law provides. This would also allow the EU to continue its leadership role during the imminent negotiations on the Global Biodiversity Framework.

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We therefore call upon the Environment Council to:

- Initiate discussions about the Nature Restoration Law proposal towards an ambitious position;
- Include overarching area-based restoration targets to restore at least 15% of the EU's land area, river length and sea area by 2030, binding also at Member-State level;
- Ensure that all targets are additional to existing obligations, particularly under the Habitats Directive, to increase and maximise biodiversity benefits and to protect the rule of law;
- Ensuring the enforceability of Member State contributions to EU-level targets in the lead up to 2030 to provide accountability mechanisms for meaningful action at the scale and urgency required.

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, it is essential for the EU to strengthen its Fit-for-55 package to help achieve energy independence, support EU agency and reduce 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 this generation unless we act decisively. We rely on you.

Yours sincerely,



Jeremy Wates
Secretary General