

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

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

**Re: Input to the EU Environment Council Meeting, Brussels, 20 December 2022**

Brussels, 7 December 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.

The last months have seen continuing pressures to use the Russian war in Ukraine, the energy price crisis and inflation as arguments to drop, delay or weaken environmental legislation. This will not address the claimed challenges. It will only weaken environmental and social protections and miss a crucial opportunity to invest in future resilience.

The EGD should be recognised as a peace project, given how the measures will help over time reduce energy use and dependency, materials use and sensitivity to pricing hence reducing the power of regimes that wish the EU ill. Furthermore, the EGD will encourage innovation to enable the EU to lead in future sustainable industries and support the EU's competitive position. We therefore call upon Environment Ministers to resist those pressures which do not provide the needed transformative and progressive answers that we need and that more often reflect short-term private interests or ideological positions rather than the best way forward for Member States and the EU.

Furthermore, it is essential to recognise the many links of nature's ecosystems to our health and social systems and economic systems, and how investment in healthy ecosystems is a *sin qua non* for a viable future. A strong nature restoration law is urgently needed to support and protect Europe's biodiversity, to counter the unparalleled decline of flora and fauna, whilst bringing benefits for people, society and economies directly and by helping mitigate GHG emissions and strengthen resilience to climate change.

I invite you to take our concerns into account during the final official level preparations, as well as at the meeting itself. Many files will of course remain active under the Swedish and Spanish presidencies and a few eventually during the Belgian presidency. We have structured the letter according to our understanding of the 20 December Council Agenda.

## **1. Nature Restoration Law**

The Nature Restoration Law offers a key opportunity to bring nature back in Europe, benefiting biodiversity, climate and people. In the context of long-standing legal obligations deriving from international law, the outcomes of the UNFCCC COP27 and the CBD COP15 negotiations are once again making clear that we need to tackle biodiversity decline and climate crisis together for the well-being of our society. Nature restoration is our best insurance policy for both climate mitigation and adaptation through increased resilience to droughts, floods and other extreme weather events.

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Consequently, nature restoration also contributes to long-term food security. It is undoubtedly one of the best investments the EU can make.

We call upon you to express (1) your dedicated support for adoption and implementation of the ambitious Nature Restoration Law and (2) your commitment to a timely process in the Environment Council. The aim should be to agree upon a general approach as quickly as possible whilst ensuring the level of ambition that is needed in light of the ongoing climate and biodiversity crises. This will require strengthening key aspects of the proposal, ensuring that its immense potential for synergistic biodiversity and climate solutions is seized.

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

- **Fully endorse the Commission's proposal** as the minimum ambition level for nature restoration;
- **Ensure that all Member States contribute in a fair and proportionate manner to the area-based overarching objective** to cover 20% of the EU's land and 20% of the EU's sea area with restoration measures by 2030;
- **Guarantee implementable marine restoration targets** by avoiding deadlock situations where Member States do not agree joint recommendations under the Common Fisheries Policy;
- **Integrate quantified and time-bound restoration targets to restore 15% of national rivers** into free-flowing rivers and restored floodplains by 2030;
- **Ensure that all non-residential drained peatlands are fully rewetted by 2040** to enable restored peatlands to contribute to the EU's 2050 climate neutrality targets;
- **Endorse forest restoration that focuses on key biodiversity indicators** as an important target for more resilient forests and the long-term sustainability of commercial forestry;
- **Ensure a strong governance framework** with real public participation in the National Restoration Plans (NRPs), Commission powers to reject inadequate NRPs, access to justice, monitoring measures and the enforceability of national contributions to the 20% objective that ensures accountability;
- **Request ringfenced nature restoration funding** as part of the next Multiannual Financial Framework.

For more information, please see the [NGO assessment of the EC proposal](#), [peatland restoration fact sheet](#), and [briefing on nature restoration and food security](#)

## **2. Regulation on fluorinated greenhouse gases**

The EEB is seriously concerned that the transition to ultralow GWP refrigerant can push the market to patented, fluorinated alternatives that are or can develop PFAS, the forever chemicals that would give way to a diffused pollution of water environment across EU. We are equally concerned that the phase-down foreseen by the commission is not the one technically and economically feasible but rather a compromise. Lastly, we are worried that no strict provisions are there to make sure Member States would adopt national training plans, which are crucial to implement the transition towards future-proof natural refrigerants in the F-gas regulation and the achievement of the REPowerEU heat pumps' objectives.

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

- **Introduce a ban on all fluorinated substances for all sectors** where the technology is there or will be there in 2025 and notably for commercial refrigeration, heat pumps, and switch gears;
- **Tighten the phase down** to the one foreseen in Option 3 of the impact assessment;
- **Raise the quota fee to at least 10 Euro to maintain a stable revenue from 2025 to 2035** to provide resources for MS for training of professionals, training on customs, market surveillance, incentives for end users to switch to future-proof solutions;
- **Propose national plans** with a clear roadmap and KPI on training and certifications;
- **Adapt the minimum sanctions** for illegal trade to the turnaround of the company infringing the law to make the cost relevant for multinationals and major firms.

### **3. Revision of Directive 2010/75/EU on industrial emissions and Directive 1999/31/EC on the landfill of waste**

The EEB believes that the revised IED proposal is not yet fit for purpose to clean up industrial production and generate transformative change towards circular, decarbonised and zero-pollution industry. Many important aspects such as output-oriented performance expectations from the EU's industrial transformation are either shifted towards a future review or left for implementation measures, escaping public scrutiny.

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

- **Extend the IED's 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. Lower the threshold for Large Combustions Plants;
- **Reject any regulatory backtracking**, by ensuring Chapter II provisions apply for the most intensive farms which are already covered by the IED as well as large cattle farms e.g., above 300 Livestock Units;
- **Strengthen the pollution prevention and animal welfare provisions** for all other livestock operations covered by the Directive, notably by:
  - strengthening the basic obligations (incl. on inspection monitoring) and permitting rules;
  - ensuring public participation in the development of the operating rules;
  - defining minimal pollution prevention measures in the Directive (that apply as operating rules by a given date);
  - ensuring full compliance with environmental quality standards and respect of carrying capacity of receiving environment / impacted areas (e.g., nutrients surplus);
  - lowering the administrative burden for enforcement and permitting authorities by requiring operators to make key information (e.g., permit conditions and compliance report) directly accessible through the industrial Emissions Portal, through electronic reporting in a timely manner.

- **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, and resource management;
- **Ensure for a “combined approach”** of strong carbon pricing via the EU ETS to deliver in combination with performance-based standards. **Replace Article 9(1) to require the setting of dedicated decarbonisation measures** e.g., on the electrification of energy-intensive industries, fossil and feedstock substitution. As a minimum, expect operators not to exceed the GHG performance levels of the best products class EU ETS benchmarks. **Delete Article 9(1) as fallback.** Add “climate neutrality” as supplementary BAT criteria (IED Annex III);
- **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 100gCO<sub>2</sub>eq/KWh by 2035;
- **Provide for effective and enforceable Transformation Plans** (Article 27d), provide for concrete actions on pollution prevention measures to be delivered at latest by 2025 with milestones and headline key performance indicators on all EU EGD objectives set in the Directive further clarified at sector level through an inclusive multi-stakeholder process (e.g., INCITE), and make the targets and obligations part of permit conditions, subject to regular review and verification;
- **Strengthen further the conditionalities for compliance with Environmental Quality Standards** e.g., by explicitly referring to the WHO air quality guidelines, the NECPs, and climate protection;
- Further tighten up the new default approach to the **strictest technically achievable possible emission limit / environmental performance limit values** with a clearer reference point to the *most effective* BAT(s) or other relevant benchmarks. **Set a clear compliance deadline** by when this approach is to be complied with (Art 15.3);
- **Strengthen the provision on derogations** (Art 15.4) to ensure **timely public participation in the decision-making**, limit to cases where a substantiated cross-media effect is established, with a zero-tolerance approach on pollutants subject to EQS, set a maximum 4-year validity period;
- Support resilience, material efficiency and substitution of hazardous/of concern substances throughout the value chain by **strengthening relevant provisions on the Environmental Management System (EMS)**;
- Strengthen the provisions on **public access to information and participation** in the permitting procedure as well as on **access to justice** (*see the link to IEP-R*);
- **Improve 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;

- **Provide for a full internalisation of external costs** in the proposed Annex on cost benefit assessment not only in the case of granting derogations from BAT, but the method should also provide for a **meaningful carbon shadow price** and refer to the EEA value of statistical life method adapted to US damage cost price levels. **A specific minimum ratio should be set** to clarify the meaning of “disproportionality”;
- **Ensure the list of pollutants of Annex II of the IED is kept** subject to regulatory obligations and reporting, **add a further cross-link to the new and additional entries of Annex II of the Proposal for a Regulation on reporting of environmental data from industrial installations and establishing an Industrial Emissions Portal.**

For more details, see the link to IEP-R and [dedicated briefing on Annex II loss](#), [NGO assessment](#), [joint NGO position](#) and [thematic briefings including on intensive livestock rearing](#)

#### 4. Regulation on shipments of waste

The EEB welcomed the revision of the Waste Shipment Regulation, which is a major tool to restrict the exports of waste outside the EU and better control intra-EU shipments. This can ensure that the EU does not export its waste challenges to third countries, supports a clean and circular economy, in addition to setting out new measures to better tackle illegal waste shipments. The Council will continue working on its position to be later negotiated with the European Parliament that is about to finalise their position.

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

- **Strongly support a timely ban on EU exports of plastic waste** outside of the EU and EFTA, which includes an immediate ban of all plastic waste shipped to non-OECD countries, swiftly followed by a ban to OECD countries;
- **Strengthen the safeguarding policies for intra-EU waste trade**, which means to fully transpose the Basel Convention with the Union and to establish a clear distinction between mechanical recycling and any other kind of recovery for treatment operations;
- **Ensure high ambition** when it comes to traceability of waste shipment inside the EU and that the data is publicly accessible;
- **Increase the quality of recycling and lower the risk from mismanagement of contaminants and recycling rejects** by setting a European-wide threshold for waste contamination of 0,5%. A similar threshold was recently established by China and Hong-Kong.

#### 5. Zero pollution: Directives on air quality

The publication of the European Commission’s proposal to revise the Ambient Air Quality Directives is a key and much awaited step towards a zero-pollution Europe. The Council has, together with the European Parliament, the responsibility to secure the swift adoption of a new Directive reflecting the latest scientific recommendations and defining a strong enabling framework. The EU institutions and its member states must take all actions needed to guarantee that all Europeans can live in a clean and healthy environment, a Human Right recently recognised by the United Nations.

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

- **Commit to achieve and maintain air quality standards as indicated in the WHO 2021 Air Quality Guidelines** by 2030 throughout Europe, keeping in mind that all citizens in Europe have the same right to breathe clean air and therefore no minimum common denominator should be found;
- **Expand the scope of the Directive** to also cover additional pollutants, namely black carbon, ammonia and ultra fine particles;
- **Secure clear and strong provisions for the enabling framework**, including: on the type of standards to be adopted (Limit Values); on the monitoring and modelling criteria (with more attention given to air pollution hotspots); on the role to be played by Air Quality Plans (to prevent the breaches of the legislation and, once the breach is registered, to effectively act to solve the issue); on access to justice and on effective penalties and remedies.

## **6. Zero pollution: Directive on priority substances in surface and ground water**

The proposal from the European Commission to update lists of surface and groundwater pollutants, including their respective standards, is an important step towards zero pollution ambition. The Council deliberations need to start without delay to further strengthen the proposals to control pollutants of emerging concern.

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

- **Keep the scope of the legislative update of the EU water directives limited to priority pollutants of surface and groundwater** recognising the conclusions of the fitness check evaluation of the EU water policy that only chemical aspects of the WFD need a legislative update;
- **Support listing of the proposed pollutants of surface water and groundwater** including PFAS as a group, as well as **support the proposed EQS standards** for newly added substances and tightening the standards for already listed pollutants;
- **Ensure that the expected SCHEER opinions inform setting the final values;**
- **Introduce threshold values for sub-group of substances**, such as bisphenols, to better address combined effects of chemical mixtures;
- **Ensure there is no weakening of the existing obligations** to address pollution, in particular the **phase out obligation of priority hazardous substances.**

## **7. Zero pollution: Review of the Urban Wastewater Treatment Directive**

The EEB welcomed the revision of the rules related to urban wastewater treatment including the new requirement for producers of cosmetics and pharmaceuticals to share the costs associated to advanced treatment to remove micropollutants. The revised Urban Wastewater Treatment Directive should help Europeans benefit from cleaner rivers, lakes, and groundwaters, especially if synergies with other environmental legislation are fully used.

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

- **Support the proposed updates and (interim) deadlines as a minimum framework** to bring EU rules on urban wastewater treatment up to date and fit for the next two decades, including an energy neutrality target;
- **Ensure that producers pay for the cost to removal any harmful substances** related to the products they bring to the market;
- **Support the provisions to abate pollution at source and upgrade selected wastewater treatment plants to remove micropollutants**, as well as the extended requirements for selected wastewater treatment plants to remove nutrients;
- **Strengthen the proposal to minimise remaining sources of untreated wastewater** by including a legally binding cap of sewer overflows.

## **8. Directive on the substantiation of green claims**

The EEB regrets that this important legislation, originally tabled for the first Circular Economy Package, has been delayed again. The EU needs to urgently regulate the jungle of green claims and labels and halt greenwashing, which not only creates confusion and distrust among consumers, but also undermines the efforts of businesses that provide genuinely green products and services.

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

- **Urge the Commission to present its proposal in early 2023** to enable its adoption within its current mandate, ensure coherence with the Directive on empowering the consumer for the green transition and avoid any gaps in the regulation of green claims;
- **Ensure that all green claims are subject to reliable substantiation methods and clear communication rules**, including on availability of supporting evidence;
- **Guarantee that requirements substantiating green claims avoid trade-offs between impacts and address all relevant environmental impacts**. The Product Environmental Footprint (PEF) method needs to be complemented for important environmental aspects, such as on the substitution of hazardous chemicals, which should not be present in products marketed as green. Moreover, it fails to consider important hotspots of agri-food products such as biodiversity, pesticide use, soil quality and deforestation;
- **Make sure that environmental claims relate to the actual environmental performance of products**, avoiding hiding impacts through offsetting schemes as done by carbon neutral or plastic neutral claims;
- **Reinforce the EU Ecolabel and equivalent ecolabels** which take a life cycle perspective to differentiate products and services of environmental excellence;
- **Put in place a registry of trustworthy ecolabels** helping companies, consumers and market surveillance authorities to identify labels meeting minimum reliability and transparency principles;
- **Ensure coherence between environmental scoring systems or labels and EU sustainability goals through a robust governance process** enabling the involvement of Member States and civil society in the development of requirements for the substantiation and communication of green claims.

## 9. Revision of the Directive on Packaging and Packaging Waste

The EEB welcomes the Commission's proposal for a Regulation on Packaging and Packaging Waste, notably to deliver on the political ambition to make all packaging reusable or recyclable by 2030 and reverse the trend of record levels of packaging waste. Packaging waste has grown by 20% in the last 10 years – faster than the rate of economic growth.

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

- **Support the Commission's proposal to boost waste prevention and reuse** into the packaging law and ensure the legislation delivers on the ambition to make all packaging reusable or recyclable by 2030;
- **Boost the ambition of waste prevention targets** to reverse the trend of growth in packaging waste. With a political objective to reduce waste by 20% in a decade, supported by measures to reduce the weight of recyclable packaging;
- **Support bold reuse targets across a range of sectors**, including the retail sector currently missing from proposals, supported by a clear definition of reuse systems;
- **Reintegrate a dropped proposals to ban polystyrene packaging** which were unnecessarily dropped in the final proposal of the PPWR;
- **Support the proposals for mandatory DRS** for aluminium and plastic, and glass should also be included in this measure;
- **Avoid supporting fake solutions and bad substitutions** already flooding the market, including refill systems which continue to rely on single use packaging and non-recyclable laminated paper packaging;
- **Remove the provision for "innovative" packaging** which will not need to be recyclable for up to 5 years;
- **Ensure consistency between with other product policy tools** such as the Ecodesign for sustainable products regulation (ESPR) and extended producer responsibility schemes.

## 10. Regulation on carbon removals certification

The EEB regrets that the proposal for the new **Carbon Removal Certification Framework (CRCF)** **greatly undermines the EU's climate and environmental ambition**, and risks having disastrous consequences for our climate, nature, and rural communities.

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

- Request to be kept closely involved in the forthcoming discussions and **to prevent the Regulation from becoming a greenwashing tool for industry.**

## 11. Reports on main international meetings: COP27

The EEB welcomes that after three decades in the making, all governments at COP27 agreed to set up a Loss and Damage Fund. This is a first step in a process to rectify the systemic injustice to billions of people, particularly in the Global South, who are the least responsible but are on the frontlines of the climate crisis, but clear and binding commitments for its financing are still lacking. Furthermore, the presence of more than 600 fossil-fuel lobbyists (more than in Glasgow) and underrepresentation and

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reports of harassment of COP27 delegates and Civil Society, seriously questions the legitimacy and progress to be expected.

## 12. Reports on main international meetings: INC-1 Plastics treaty

After the first round of negotiations for the international treaty to curb plastic pollution, the EU is more than ever needed to make sure a strong and impactful treaty will be negotiated and agreed upon. The EU needs to weigh in on the Rules of Procedure to make sure there are functional voting rules that can apply when consensus is not reached. The EU should also make sure that there is no interference or conflict of interest from the fossil fuel and petrochemical industry in the negotiating process. The EU should lead the charge during the negotiations for a global ban on plastic waste transboundary movements (with extremely limited exceptions for small island countries, for instance).

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

- **Ensure that the EU remains strong on global contract measures** such as production gaps for virgin plastic production, moratorium on new plastic production facilities and the elimination of chemicals of concern (under a grouping assessment approach) in the submission for the preparations lead by UNEP on the “elements of the treaty document” ahead of INC-2.

## 13. Reports on main international meetings: Convention on Biological Diversity (CBD) COP 15

The talks for agreeing the Global Biodiversity Framework under the UN Convention on Biological Diversity (CBD) are in final stages of what has been an incredibly challenging four years of negotiations with CBD COP 15, expected to take place in Montreal on 7-19 December. Nature is declining at rates unprecedented in human history, with one million species now threatened with extinction. The EEB stresses the importance of countries agreeing to a goal of conserving at least 30% of the planet’s land, inland waters and oceans by 2030 through a rights-based approach that recognizes the leadership and rights of indigenous peoples and local communities. At the same time, action is needed to ensure the remaining 70% of the planet is sustainably managed and restored – and this means addressing the drivers of biodiversity loss with the same level of urgency. Science is clear that global production and consumption rates are completely unsustainable and are causing serious damage to the natural systems people rely on for their livelihoods and wellbeing.

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

- **Make every effort to secure a ‘Paris’-style agreement on biodiversity at the CBD COP 15** capable of driving immediate action to halt and reverse biodiversity loss by 2030.

## 14. Implementation of the EU’s Biodiversity Strategy for 2030

At your meeting, the European Commission is expected to present its annual progress update on the implementation of the EU’s Biodiversity Strategy. The EEB acknowledges the progress made especially around the proposal for the Nature Restoration Law, as well as guidance on protecting the EU’s land

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and sea including under strict protection. The EU has also continued to play a positive role in pushing for an ambitious global biodiversity agenda. However, efforts need to be stepped up in 2023 on delivering commitments in the EU Biodiversity Strategy to setting fully coherent trans-European nature network, improving status of protected species & habitats and especially enabling transformative change and unlocking funding for biodiversity.

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

- **Continue to support and properly resource the delivery of the key commitments in the EU Biodiversity Strategy** such as setting fully coherent trans-European nature network, improving status of protected species & habitats, and enabling large-scale nature restoration.

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 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 honour its climate commitments to help achieve energy independence, support EU agency and reduce funding of belligerent forces. It is vital to stay true to the transformative EGD agenda (see also [EEB OpEd](#)) and promote a carbon neutral, energy- and resource-efficient circular economy, with a commitment to nature restoration and building constructively upon the outcomes of recent international meetings on climate diplomacy.

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. Your engagement is essential.

Yours sincerely,



Patrick ten Brink  
Secretary General  
European Environmental Bureau (EEB)