



Brussels, 9 November 2005

To: the Environment Ministers of the EU Member States

**Concerning: EU Environment Council, Brussels, 2 December 2005**

Dear Minister,

On behalf of the European Environmental Bureau I would like to offer you our views on six of the issues on the agenda for the upcoming EU Environment Council.

I would invite you to take our concerns into account during the officials' final stage of preparations, as well as during the meeting itself. Below I present the key messages, and attached you will find the EEB's more detailed input for discussion on the same topics.

I call on you to do everything in your power to ensure that a political agreement on **REACH** is achieved during the UK Presidency. Such an agreement should maintain the key principle of the new safety management regime, identify unacceptable chemicals and ensure the replacement with safer alternatives. We do not think the German government demand is justified. If this were to be accepted, any national elections in any Member States could delay EU decision-making. The discussion on REACH has been going on for seven years and all important arguments have been put on the table. The delay could well lead to further weakening of the already compromised proposals, reaching the point that the opposition of the environmental movement to the final result would be unavoidable.

**1. LIFE+ (political agreement)**

The EEB welcomes the efforts by the EU Presidency to formulate a more cohesive LIFE+ instrument, in particular by introducing a nature and biodiversity component. This, however, will only have a real impact if the LIFE+ budget is sufficiently large. Furthermore, we call for some flexibility in maximum co-financing rates.

**The EEB therefore calls on the Environment Council to:**

- support the position of the European Parliament, which insists on a substantial increase of the LIFE+ budget in order to finance a third of the EU's contributions to Natura 2000 from 2007 via this budget; and
- under certain conditions and for certain actions, allow for a co-financing rate of 75% under Annex III. Land purchase and the implementation of EU species action plans must remain eligible under the next programming period.

*See also Annex 1 for more specific EEB comments.*

## **2. Thematic Strategy on Air Pollution (policy debate)**

Ahead of the EEB's full assessment of the Thematic Strategy on Air Pollution, we offer here our preliminary comments.

We welcome the Strategy as a step to systematically assess and address air pollution from different EU policy sectors. We regret however the significant lowering of ambition compared to the earlier plans of DG Environment. As a result, it will not achieve the EU's long-term objectives of no exceedance of critical loads and levels and protection of all people against the dangerous effects of air pollution.

The proposal for revising Directive 1999/30/EC and daughter Directives could lead to the weakening of already achieved air quality standards. The new time derogation for the existing and future limit values and the deletion of the second – more stringent - phase of the PM<sub>10</sub> limit values are of concern and could endanger an EU-wide level playing field. We welcome the proposal to introduce a new standard for PM<sub>2.5</sub>, but suggest they should be stricter.

The Commission's analysis has been more than clear: most of the health damage currently caused by air pollution in the EU comes from fine particles. Consequently the provisions of this directive proposal must be strengthened significantly.

### **The EEB therefore calls on the Environment Council to:**

- welcome the Thematic Strategy, specifically the emphasis on integration into other policy sectors;
- insist on a significantly higher ambition level of the Strategy in order to properly address the environmental and health damage and ensure an environmentally meaningful review of the National Emission Ceilings;
- introduce a binding and more stringent standard for PM<sub>2.5</sub> which will lead to concrete improvements of public health; and
- delete the proposed time derogations for meeting the existing and future limit values.

*See also Annex 2 for more specific EEB comments.*

## **3. Communication on Aviation Emissions (Council Conclusions)**

The EEB and the European Federation for Transport and Environment welcome the Communication, but consider it insufficient to make considerable progress in limiting the impact of aviation emissions on climate change.

We believe that besides the inclusion of aviation into the EU ETS, special taxes and charges have a role to play. This would bring more meaningful emission reduction incentives, level the playing field in the transport market, reduce oil dependence and imports, and assist in lowering 'bad' taxes such as those on labour.

Environmental NGOs think that the Council and Parliament now have the responsibility to provide clear political guidance to the Commission on the design for the inclusion of aviation into the EU ETS. Crucial political decisions should not be delegated to the ECCP2 aviation working group.

### **The EEB and T&E therefore call upon the Environment Council to:**

- agree on a cap for the aviation sector at EU level that is in line with the commitments of other economic sectors subject to the Kyoto protocol;

- ensure the widest possible geographic coverage – all flights from and to EU airports;
- opt for auctioning of permits as the allocation method;
- include aviation into the EU ETS before 2010; and
- ensure that non-CO2 emissions are taken into account from the very beginning.

*See also Annex 3 for more specific EEB and T&E comments.*

#### **4. Preparation for the International Conference on Chemicals Management (Development of SAICM)**

With IPEN (the International Persistent Organic Pollutants Elimination Network), the EEB welcomes the progress the Preparatory Committee of the International Conference on Chemicals Management is making in preparing the Strategic Approach to International Chemicals Management (SAICM) for adoption in February 2006. We particularly welcome the important contributions by EU Member States and the Presidency.

##### **The EEB and IPEN call upon the Environment Council to:**

- actively promote a strong SAICM with the definite aim to achieve the WSSD 2020 goal<sup>1</sup> and prepare the high-level adoption of SAICM as a political and ethical commitment to work towards this goal;
- ensure that SAICM embraces core principles and approaches (including the Precautionary Principle and Liability and Compensation), promotes substitution, and provides guidance on how these shall be applied to Sound Chemicals Management;
- push for substantial assistance to developing countries to ensure they can take part in the SAICM implementation; and
- ensure a transparent and sufficiently resourced follow-up at ICCM level.

*See also Annex 4 for more specific EEB comments.*

#### **5. GMOs – Political Debate on authorisation procedures (Directive 2001/18 and Regulation 1829/2003)**

The EEB has serious concerns about the way the authorisation procedure is functioning and we do not believe that the current procedure contributes to increasing consumer confidence.

##### **The EEB calls upon the Environmental Council to:**

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<sup>1</sup> At the World Summit for Sustainable Development WSSD (Johannesburg 2002) a Plan of Implementation was developed, in which governments restated in Paragraph 23 their commitment to sound management of chemicals as contained in Agenda 21, the Rio Declaration, and other relevant instruments. The Plan of Implementation formally endorsed the target to “achieve by 2020 that chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment.”

- insist that the GMO panel of the European Food Safety Authority (EFSA) improves its work to ensure a higher level of consumer and environmental protection from GM crops and foodstuffs and to fully apply the precautionary principle. In particular, it should pay more attention to the long-term effects of a particular food including probable combination effects, scientific uncertainties as well as differences in scientific opinion;
- request urgent, legally binding clarification on how the EFSA has to apply the legal requirements on risk assessment and monitoring of GMOs, as they are provided in the relevant EU legislation and in particular Directive 2001/18; and
- improve the transparency and openness of the “comitology procedure” – in particular with regard to allowing stakeholder involvement in preparing Committee meetings as well as opening the meetings to observers.

*See also Annex 5 for more specific EEB comments.*

## **6. Marine Thematic Strategy**

The EEB welcomes that the Thematic Strategy for the Protection and Conservation of the Marine Environment is finally presented and that it includes a legislative instrument, but we are disappointed about the lack of enforceable common targets.

Binding and enforceable common targets and environmental standards are a prerequisite for achieving a healthy marine environment.

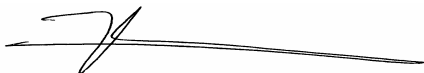
Furthermore, the proposal fails to put into context, and thus reinforce, existing provisions, including those contained in the EU’s nature conservation laws and in the Water Framework Directive, including the achievement of a good ecological status for all coastal waters by 2010 and the aim to phase out the emission of hazardous substances by 2020.

### **The EEB calls upon the Environmental Council to:**

- welcome that the Commission presented a legislative proposal as a key instrument to set a framework for future sustainable maritime development in the EU;
- ensure that the Marine Directive will establish common targets and protection standards, which are enforceable and aim at achieving a healthy marine environment in Europe, and acknowledge the collective responsibility of Member States to improve the health of Europe’s seas; and
- ensure better alignment with existing provisions and objectives under Natura 2000 and the Water Framework Directive, stressing the need for a timetable that avoids any delays.

*See also Annex 6 for more specific EEB comments.*

Yours sincerely,



John Hontelez  
Secretary General EEB

## Annex 1

### EEB's comments for 2 December Environment Council on

#### ***PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL CONCERNING THE FINANCIAL INSTRUMENT FOR THE ENVIRONMENT (LIFE+)***

The EEB welcomes the efforts made by the EU Presidency to formulate a more cohesive LIFE+ instrument. In particular, we welcome the introduction of a nature and biodiversity component.

However, such positive features will prove ineffective if the LIFE+ budget is insufficient. Although the budget for LIFE+ will not be decided on in December and will depend largely on the decision regarding the overall budget under the financial perspectives, we would like to underline the European Parliament's position in this matter. The European Parliament voted overwhelmingly to increase the budget to 9.54 billion euros over the next financing period (2007-2013). LIFE+ should help fill the substantial funding gap for Natura 2000 measures that cannot be financed from other EU funding programmes – which NGOs estimate to require around 9 billion euros.

We believe it should be possible that under certain conditions, and for certain actions, a co-financing rate of 75% under Annex III is allowed for the protection of priority natural habitats or species – including bird species in urgent need of protection.

Equally important are the eligibility criteria. Land purchase and the implementation of EU species action plans are possible under the current LIFE Nature fund and it is of the utmost importance that they will remain eligible under the next programming period. Equally important is that not only innovative, transboundary actions – including management measures of a routine or ongoing nature – are eligible, as this is likely to set the bar too high for many essential actions for Europe's most threatened habitats and species.

#### **The EEB therefore calls upon the Environmental Council to:**

- support and actively promote the European Parliament's proposal for an increased LIFE+ budget;
- support a co-financing rate of 75% for action grants under specific circumstances; and
- make three particular actions eligible for funding:
  - 1) the purchase of land;
  - 2) the implementation of EU species action plans; and
  - 3) management measures of a routine or ongoing nature.

## Annex 2

### EEB's comments for 2 December Environment Council on

#### ***THEMATIC STRATEGY ON AIR POLLUTION & PROPOSED REVISION OF AIR QUALITY LEGISLATION***

The EEB is currently developing its full assessment of the Thematic Strategy, but can already offer its preliminary comments.

The EEB welcomes the publication of the Thematic Strategy on Air Pollution as a first step to systematically address air pollution from different EU policy sectors. However, the Strategy is too weak to properly address the health and environmental problems caused by air pollution. The ambition level of the Strategy, which had been lowered significantly from the earlier plans of DG Environment, means that in the year 2020 air pollution will still lead to significant health and environmental damage. Exposure to fine particles and ozone will cause about 230,000 premature deaths per year and great suffering of millions of citizens from allergies and other non-lethal diseases. Fine particles alone will lead to a shortening of people's average life expectancy by 4.2 months. Furthermore air pollution will continue to cause significant damage to ecosystems, crops and cultural heritage. In the year 2020 63,000 square kilometres of forests will suffer from excess acid deposition and 416,000 square kilometres of EU's ecosystems will be damaged by eutrophying deposition.

As it stands this proposed Strategy would not achieve the EU's long-term objectives of no exceedance of critical loads and levels and protection of all people against the dangerous effects of air pollution.

#### **The air quality directive revision**

The Commission's proposal regarding the revision of directive 1999/30/EC suggests the merging of the existing air quality framework and daughter directives, and establishes new derogations from the existing objectives and a new quality standard for PM<sub>2.5</sub>.

Several elements proposed by the Commission would lead to an effective weakening of the existing air quality directives. Particularly the possibility to apply for derogation of the time limit to meet the existing (PM<sub>10</sub>, SO<sub>2</sub>, CO and lead) and future (NO<sub>2</sub>, benzene and PM<sub>2.5</sub>) limit values are inappropriate given the health damage caused by air pollution. The criteria for applying such a derogation are difficult to enforce, with a view of the Commission's current limited capacities to check hundreds of possible cases. This means that the possibility of a coherent EU-wide level playing field could be seriously undermined. In addition, the Commission proposes to drop the second – more stringent – phase of the PM<sub>10</sub> limit values, which were foreseen to become mandatory by 2010.

The newly proposed standards for PM<sub>2.5</sub> are the only element in this proposal that has the potential to actually improve the protection of people's health. The legally binding "concentration cap" however is set at a level that should be achieved anyway by the time it enters into force, if the PM<sub>10</sub> limit values are met. The "percentage reduction requirement" however, which could – in theory – lead to lower concentrations, is not legally binding. It is to be met only "where appropriate". It will thus most likely have no effect.

In summary the Commission is proposing to not make the second stage PM<sub>10</sub> limit values mandatory and to introduce a new standard that has neither the same

stringency nor the same legal status. This effectively means that this proposal takes away the long-term policy driver for effectively lowering the concentrations of fine particles.

The Commission's analysis has been more than clear: most of the health damage currently caused by air pollution in the EU comes from fine particles. Consequently the provisions of this directive proposal must be strengthened significantly in order to protect people's health everywhere in the EU.

**The EEB therefore calls on the Environment Council to:**

- welcome the Thematic Strategy, specifically the emphasis on the integration into other policy sectors;
- request a significantly higher ambition level of the Thematic Strategy in order to properly address the environmental and health damage and ensure environmentally meaningful review of the National Emission Ceilings;
- introduce a binding and more stringent standard for PM<sub>2.5</sub> which will lead to concrete improvements of public health; and
- delete the proposed time derogations for meeting the existing and future limit values.

### Annex 3

#### EEB and European Federation for Transport and Environment (T&E) comments for 2 December Environment Council on

##### **COMMUNICATION ON AVIATION EMISSIONS**

In relation to aviation's impact on climate change, the environmental NGOs have called for:

- **urgent action** given the sector's growing contribution to greenhouse gas emissions;
- **regional EU action** as there is little or no prospect for agreement on global instruments in the short- to medium-term; and
- the development of a **broad package of measures** to tackle aviation's climatic impact, including taxes, charges and trading.

The EEB and T&E welcome the Commission Communication, as a first step to achieving the above objectives. At the same time, environmental NGOs believe that the inclusion of aviation in the EU ETS is only one of the elements of a package of measures that is necessary to get the emissions from the sector under control. Taxes and charges clearly still have a role to play, to provide more meaningful emission reduction incentives, to level the playing field in the transport market, to reduce oil dependence and imports, and to be able to lower 'bad' taxes such as those on labour. NOx charges on airports and air traffic management measures to avoid contrail formation are also badly needed.

Therefore the Council should keep all mitigation options open. In particular, the deletion of the obsolete fuel tax exemption should become a higher priority in negotiations on new or revised bilateral air service agreements. Freedom to access new markets should go hand in hand with the freedom to tax kerosene.

The EEB and T&E are of the opinion that the Council and Parliament now have the responsibility to provide guidance to the Commission on the most critical issues surrounding the design of the inclusion of aviation into the EU ETS, notably the cap, geographic scope, the methodology for allocation, and the decision on non-CO2 impacts. The responsibility for these decisions should not be shifted to the ECCP2 aviation working group – in our view this working group should primarily deal with the more technical implementation issues.

##### **The EEB and T&E therefore call upon the Environmental Council to:**

- set the cap for the aviation sector at EU level, which is in line with the commitments of other economic sectors subject to the Kyoto protocol, i.e. -8% for the 2008-2012 period and -30% for 2020 relative to 1990 emissions;
- ensure a wide geographic coverage including all flights from and to EU airports. Such a broad scope is not only necessary from an environmental point of view, but it could also reduce distortions in the European aviation market (i.e. cross-subsidies of short haul flights at the expense of long-haul ones). No special provisions should be made for 'peripheral' airports as the financial impacts of the scheme are too small to justify such an exemption;
- opt for auctioning of permits as the allocation method. This complies much better with the polluter pays principle, reduces emissions much more effectively, does

justice to new entrants, drastically reduces red tape and administrative costs, and is by far the most efficient way of distributing allowances;

- include non-CO2 emissions, otherwise the earth still warms up rather than cools down when the aviation sector buys permits off the market to offset its own emissions. Therefore other regulatory and economic instruments must be used in parallel to tackle the full climate impact of aviation (the flexibility to use such instruments must be defended in international fora such as ICAO). A multiplier should be used until such ancillary policies to address the non-CO2 impacts have been put in place; and
- keep the responsibility to provide guidance of the most critical issues surrounding the design of the inclusion of aviation in the EU ETS, notably the cap, geographic scope, the methodology for allocation, and the decision on non-CO2 impacts with the EU legislative institutions themselves. The working group should primarily deal with the more technical implementation issues.

## Annex 4

### EEB and IPEN (International Persistent Organic Pollutants Elimination) comments for 2 December Environment Council on

#### ***PREPARATION FOR THE INTERNATIONAL CONFERENCE ON CHEMICALS MANAGEMENT (DEVELOPMENT OF SAICM)***

With IPEN, the EEB welcomes the progress the Preparatory Committee of the International Conference on Chemicals Management is making in preparing the Strategic Approach to International Chemicals Management (SAICM) for adoption in February 2006. We particularly welcome the important contributions by EU Member States and the Presidency.

#### **The EEB and IPEN call upon the Environment Council to:**

- actively promote a strong SAICM with the definite aim of achieving the WSSD 2020 goal<sup>2</sup> and preparing the high-level adoption of SAICM as a political and ethical commitment to work towards this goal;
- ensure that SAICM embraces core principles and approaches (including the Precautionary Principle and Liability and Compensation), and that it provides guidance on how these shall be applied to Sound Chemicals Management;
- implement the commitment from the WSSD to “support developing countries in strengthening their capacity for the sound management of chemicals and hazardous wastes by providing technical and financial assistance”, namely through:
  - providing initial but substantial funds for the time-limited SAICM Quick Start Programme;
  - developing mechanisms to integrate funds for chemicals management in the EU’s development programmes; and
  - creating a chemicals management focal area in the Global Environment Facility (GEF<sup>3</sup>).

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<sup>2</sup> At the World Summit for Sustainable Development WSSD (Johannesburg 2002) a Plan of Implementation was developed, in which governments restated in Paragraph 23 their commitment to sound management of chemicals as contained in Agenda 21, the Rio Declaration, and other relevant instruments. The Plan of Implementation formally endorsed the target to “achieve by 2020 that chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment.”

<sup>3</sup> The Global Environment Facility (GEF), established in 1991, helps developing countries fund projects and programmes that protect the global environment. GEF grants support projects related to biodiversity, climate change, international waters, land degradation, the ozone layer, and persistent organic pollutants. <http://www.gefweb.org/index.html>

- insist that SAICM implementation includes measures to promote substitution and phase-out when a chemical poses unmanageable risks to human health or the environment under its ordinary conditions of use in a country – insisting in particular that the implementation process includes the promotion of the use of chemical and non-chemical safer alternatives;
- ensure that the SAICM/ICCM process continues to be a transparent process particularly via the creation of a SAICM Secretariat that would:
  - be responsible for organising biannual meetings of the oversight body
  - play a critical role in facilitating SAICM implementation; and
  - be constituted in a way that enables it to relate to all national ministries or agencies participating in national inter-ministerial chemicals management coordinating committees.
- encourage and support frequent SAICM regional meetings and inter-sessional working groups, as required.

## Annex 5

### EEB's comments for 2 December Environment Council on

#### ***GMOs – REVISION OF THE AUTHORISATION PROCEDURE DIRECTIVE 2001/18***

The Council will have a policy debate on the revision of the authorisation procedure concerning the placing on the market of GM products. So far such decisions have been made by the Commission following the failure of Member States to reach qualified majority in the Regulatory Committee or Council.

It is the lack of credibility of the current decision-making process that has driven many Member States to take a very cautious approach. In fact, there are serious concerns about the way the authorisation procedure is functioning and we do not believe that this procedure will contribute to increasing consumer confidence on GM products that are placed on the EU market. EEB concerns are mainly related to the quality of the assessment performed by the European Food Safety Authority (EFSA), to the centralised procedure itself, and to the lack of equivalence between requirements under Directive 2001/18/EC and Regulation 1829/2003, especially as far as the environmental risk assessment is concerned.

- The GMO panel of EFSA was set up to contribute to an improved risk assessment of GM crops in the EU. However, analysis of the assessments made so far by the EFSA shows that the Authority has not contributed to a higher level of consumer and environmental protection from GM crops and foodstuffs. The criticisms of the old regulatory framework are still valid. The data are often of poor quality and where differences and irregularities have been found, these have not been followed up sufficiently. There is no rigorous scientific consideration of high quality data where any departures from substantial equivalence are investigated thoroughly. The European Commission and Member States have the duty to take action in order to make sure that the requirements and standards for risk assessment in European legislation are met by EFSA and by national competent authorities. For now, the key role given to EFSA in the Regulation is a serious cause for concern.
- The centralised procedure involves a lesser degree of scrutiny of the applications by Member States, or by the public. Therefore relevant questions are not asked, and are thus not answered. We believe that this takes the risk assessment further away from the precautionary principle, which has to be implemented both at risk assessment and risk management levels.
- From a legal point of view, it appears that the requirements on risk assessment, risk management, monitoring, information to the public and safeguard clauses, as provided by Regulation 1829/2003 and Regulation 178/2002, are not equivalent to the requirements provided by Directive 2001/18. We believe that there is here a serious legal problem that needs to be solved before any application can be processed through Regulation 1829/2003. This situation is worrying especially for applications to place on the market "a GMO or food containing or consisting of GMOs". Thus it should be urgently clarified, through legally binding legislation, how the EFSA has to apply the legal requirements on risk assessment and monitoring of GMOs, as they are provided in the relevant EU legislation and in particular Directive 2001/18.
- The EU has a comprehensive legislative framework to protect consumers and the environment. A key aspect is the legal requirement to consider the long-term

effects of a particular food and probable combination effects. This is particularly relevant for new technologies such as genetic modification. The legal obligation for this can be found in article 14.4 of the EU's 178/2002 regulation, which is often omitted particularly when it comes to EFSA's opinions on GM products. In addition, other legislation such as Directive 2001/18 also call for the assessment of long-term environmental effects.

- EFSA has a legal requirement to address differences in scientific opinion. Sometimes substantial differences can be found between Member States' and EFSA's opinions. Article 30.4 of 178/2002 states that: "*Where a substantive divergence over scientific issues has been identified and the body in question is a Member State body, the Authority and the national body shall be obliged to cooperate with a view to either resolving the divergence or preparing a joint document clarifying the contentious scientific issues and identifying the relevant uncertainties in the data. This document shall be made public.*" Despite differences in scientific opinion between Member States and EFSA, there is no evidence that the EFSA has fulfilled its obligations under this article.
- EFSA opinions often do not state where the scientific uncertainties arise even though this is a long-established scientific practice. Indeed it is legally binding to do so. For example, when considering the release of GMOs into the environment, the Commission Decision 2002/623 explicitly states this. Nevertheless EFSA has only given scant regard to uncertainties in any of their opinions for GMO products under 2001/18. An assessment of the scientific uncertainties in an EFSA opinion is crucial to enable risk managers (i.e. the Commission and Member States) to make judgements in the public interest. It also avoids abuse of EFSA opinions by risk managers who can claim that a product is safe just because EFSA said so.
- The present "comitology procedure" is characterised by a lack of transparency and openness, contributing to the undermining of the credibility of the entire decision-making process. Stakeholders' involvement in preparing Committee meetings as well as opening the meetings to observers would improve both the transparency and quality of decisions made.

Against this background, the EEB calls upon the Council to fully address all the above mentioned concerns so as to put in place a credible authorisation process, able to restore the confidence of European citizens.

## **Annex 6**

### **EEB's comments for 2 December Environment Council on**

#### ***MARINE THEMATIC STRATEGY***

The EEB welcomes that the Thematic Strategy for the Protection and Conservation of the Marine Environment is finally presented and includes a legislative instrument. But we are disappointed about the lack of enforceable common targets. Unlike the Commission's proposal for a Clean Air Strategy in September 2005, the Marine Strategy does not build on binding and enforceable common targets and environmental standards, which we believe are a prerequisite for achieving a healthy marine environment, but leaves key decisions on what constitutes a healthy marine environment up to Member States.

We are concerned that the Commission's proposal falls short of meeting its intended purpose of driving the protection and recovery of marine ecosystems, the alleviation of pollution impacts, and the sustainable use of marine resources. As the proposal stands it is unlikely that the large differences in the ambition of protecting regional seas, as manifested in the different Marine Conventions and their implementation, could be overcome in order to achieve a level playing field with a common ecological sustainability condition. In light of the growing pressure to subordinate environmental protection to business self-interest and the obvious failure in the fishing sector to achieve a sustainable management of natural resources, we believe that enforceable and common environmental targets and standards are a necessary and responsible political response.

The Commission's argument to reject a more prescriptive and centralised legal instrument with legally binding standards – as presented on page 29 of the Impact Assessment – seems to be a pre-judgement. The statement that such an approach would not take account of regional diversities and would not allow Member States to make a choice of policy options for implementation is wrong. On the contrary common and legally binding targets and standards allow each Member State to choose different instruments and ways to achieve them in the assurance that all other Member States are guided by the same level of ambition. This motion is manifested in the great interest and effort of Member States to achieve a definition of "good ecological status" under the WFD that is "as common as possible". The claim that not enough information is available to set common standards is simply unacceptable and would put the EU in a state of paralysis and inaction, ignoring the many well known problems of the unsustainable management of our marine environment.

Further, the proposal fails to put into context, and thus reinforce, existing provisions, including those contained in Europe's Nature Conservation laws and in the Water Framework Directive, including the achievement of a good ecological status for all coastal waters by 2010 and the aim to phase out emission of hazardous substances by 2020.

The Council of Ministers, along with the European Parliament, now have an opportunity to improve the draft legislation with a view to ensuring a Directive that responds to the need for good ocean governance and implementation of the raft of commitments already taken, not least the pledge to halt the loss of biodiversity by 2010.

**The EEB calls upon the Environmental Council to:**

- welcome that the Commission has presented a legislative proposal as a key instrument to set a framework for future sustainable maritime development in the EU;
- ensure that the Marine Directive will establish common targets and protection standards, which are enforceable and aim at achieving a healthy marine environment in Europe – and acknowledge the collective responsibility of Member States to improve the health of Europe's seas; and
- ensure better alignment with existing provisions and objectives under Natura 2000 and the Water Framework Directive, stressing the need for a timetable that avoids any further delays.