



To: The Environment Ministers of EU Member States

Concerning: Input to the EU Environment Council Meeting, 3 March 2008

Dear Minister,

On behalf of the European Environmental Bureau I offer you our views on four of the issues on the agenda at the forthcoming EU Environment Council, as well as on two other issues needing discussion.

I invite you to take our concerns into account during final official-level preparations, and at the meeting itself. Below, I present the key messages.

1. Contribution to the Spring European Council

The EEB calls upon the Environment Council to send comprehensive advice to the European Council, including obviously a first assessment of the Energy/Climate package (see point 2 below) and a message underlining the importance of the EU leadership role in protecting biodiversity globally (see point 4 below).

In addition, the EEB calls for some critical remarks and encouragements with regards to the implementation of the Lisbon process and (lack of) progress with regards to energy efficiency.

In particular, the EEB calls upon the Environment Ministers to:

- *Express concern about the disturbingly slow progress in implementing the environmental dimension of the Lisbon process;*
- *Ask the European Council to launch an EU-wide budget-neutral environmental tax reform process.*
- *Express concern about the delay in the production by the Commission of a roadmap to phase out environmentally harmful subsidies.*
- *Call for specific measures that promote the development of and market access for eco-innovative technology, goods and services, particularly in the renewable energy and energy efficiency sectors.*
- *Seek confirmation from the European Council that Member States undertake what is needed to achieve the 20% energy savings target agreed of the approved EU Energy Efficiency Action Plan*
- *Reinforce the use of green public procurement.*

See Annex 1 for more specific EEB proposals.

2. Climate-Energy Legislative Package

The EEB welcomes the package as a whole as potentially an important step towards a more sustainable demand and use of energy. It realises that the Commission has been under strong pressure, from business as well as from individual Member States, and that the outcome is a result of such pressures. While it has important positive features, it does risk to fail as the policy that will

give the EU credible global leadership on climate change and therewith also ensure that it will lead to a regional and global low carbon economy, the only possible route to prevent major climate change.

The EEB calls upon the Council of Ministers to improve the quality of the package, in particular by:

- *Moving the overall EU reduction target for Greenhouse Gas (GHG) by 2020 up to 30%;*
- *Allow Member States to set more strict reduction targets than required by the Commission;*
- *Minimising the use of external credits in the proposed Emission Trading Scheme;*
- *Supporting full auctioning for the power sector, striving for full auctioning in the other sectors too;*
- *Challenging the doubtful environmental quality of the biofuels proposals in the Renewables Directive and setting sufficient sustainability criteria in the Fuel Quality Directive which would then also apply to the Renewables Directive, therewith making that Directive as a whole acceptable;*
- *Strengthening the safety requirements of the Carbon Capture and Storage Directive and preventing massive public funds being diverted to that technology;*

See Annexes 2, 3 (biofuels) and 4 (Carbon Capture and Storage) for more specific EEB comments.

3. EURO VI Regulation on exhaust emissions from lorries and buses

EEB welcomes the Commission's proposals setting exhaust emissions levels for lorries and buses. The proposed levels are both ambitious and technically feasible, but the EEB does have some concerns about the details of the proposal, most importantly, the date of entry into force: 1st April 2013, as opposed to the related targets in the new Air Quality Directive (end 2011 at the latest). The EEB also insists on the strengthening of the proposed test methods for vehicle compliance with emissions levels, and in particular the assessment methodology for particulate matter. These tests need to better reflect 'real life' use conditions, and capture ultra-fine and nano-particles as part of particulate matter.

The EEB therefore calls upon the Environment Ministers to:

- *Support the proposal by the Commission on emission standards for particulate matter and NO_x - do not weaken these.*
- *Call for applying the Regulation by 2011, in line with the Air Quality Directive targets and dates.*
- *Support the introduction of a particle number standard in addition to a mass-based limit value for small particles.*
- *Adopt robust enforcement measures to ensure that new vehicles manufactured under Euro VI meet emission standards in-use throughout their lifetime under the full range of normal operating conditions [see Annex 5 for details].*

See Annex 5 for more specific EEB comments.

4. COP 9 to the Convention on Biological Diversity (CBD)

The upcoming COP on the CBD will catch the world's attention in the second half of May. The loss of biodiversity and the ensuing degradation of ecosystems and the services they deliver is, together with climate change, one of the biggest challenges the world has to deal with. The EU has demonstrated leadership in addressing the loss of biodiversity by adopting at the highest political level in 2001 the objective of halting the loss of biodiversity by 2010. Sadly, since adopting this ambitious objective, the EU can claim little success. With the Habitats and Birds Directive and Natura 2000, it has the right tools in place, but implementation of these has not been given much

priority in most Member States. For the EU to maintain credibility on biodiversity protection and to make significant progress in the negotiations at the COP 9, for example on the issue of developing a global network of protected areas, the EEB believes the EU should reiterate, at the highest political level, its commitment to leading by example.

The EEB therefore calls on the Environment Council to:

- *Include a short resolution on COP 9 in its contribution to the Spring Council, underlining the importance of the EU demonstrating leadership through example by giving full implementation of its nature protection laws the highest political priority.*

Finally, the EEB calls upon the Council to re-start the work on the Soil Framework Directive. It is deeply concerned about the blockage that ensued at the December 2007 Environmental Council meeting, which undermines the leadership of the EU in the development of effective environmental policies in Europe. It fears this will have a major negative impact on the environment in many EU Member States.

Yours sincerely,

John Hontelez
Secretary General
European Environmental Bureau

ANNEX 1:

**EEB comments to the Environment Council of 3 March 2008 on
THE SPRING EUROPEAN COUNCIL**

1. Obviously a big issue for the 2008 Spring European Council will be the **Climate/Energy Package**. For EEB's comments to this Package, see annexes 2,3 and 4.

2. As mentioned in point 4 of our letter of today (to which this annex is linked), *the EEB calls upon the Environment Council to propose the European Council, at its March meeting, a resolution to support **COP9 of the Biological Diversity Convention**, in particular to underline the importance of the EU demonstrating leadership through example by giving full implementation of its own nature protection laws the highest political priority.*

3. The Commission has written a disturbing report on the progress in the Member States with regards to **Energy Efficiency Action Plans**¹ to implement EU's decision to achieve 9% (indicative) energy savings by 2016 (outside the emission trading sectors).

The Commission's report is in response to its obligation under the Directive on energy end-use and energy services² to assess and report on the National Energy Efficiency Action Plans (NEEAPs). The report shows that out of the 17 NEEAPs received by the Commission at various intervals, only five Member States had adopted a savings target that goes beyond the minimum indicative target of -9%. In general, the report points to a 'business-as-usual' approach by the Member States, lacking in vision, political commitment to energy efficiency and discrepancies between the measures reported and resource allocation to achieve them. The role of public sector involvement in energy efficiency and energy savings was also poor.

The EEB calls upon the Environment Council to include a response to this Communication in its proposals for the Spring European Council, in particular focussing on:

- *Confirmation from Member States to undertake what is needed to achieve the 20% energy savings target as presented in the approved EU Energy Efficiency Action Plan³, with appropriate measures and allocation of resources to achieve their implementation. Besides a smooth adoption of a reinforced CO2-cars Regulation, emphasis should be placed on implementing the Directive on the Energy Performance of Buildings⁴ and using market-based instruments as incentives to foster the spread and uptake of energy efficient technologies, goods and services.*

- *Urge Member States to use green public procurement and set appropriate guidelines to facilitate and drive forward energy saving and energy efficiency in the public sector; agree on an overall EU green public procurement target as indicated below and foster its implementation at the national level.*

4. The EEB has looked at the Commission's 2007 Lisbon report (Strategic report on the renewed strategy for growth and jobs "launching the new cycle (2008-2010) Keeping up the pace of change"⁵, as well as the proposed Community Lisbon programme 2008-2010⁶. The Report assesses progress on national implementation of the Integrated Guidelines, contains Commission's proposal for taking the strategy forward and assessment of progress by policy area; and recommendations to the Council. The EEB can agree not to launch discussions about changing these guidelines now, but rather to intensify their implementation.

The Commission's report hardly reflects on national progress towards inter alia, internalising environmental costs and promoting environmental technologies and eco-innovation. It does however, clearly show that progress towards sustainable energy use and reducing CO₂ and greenhouse gas emissions, and on reducing tax burden from labour to natural resource use in

¹COM(2008) 11 final; Brussels, 23.1.2008

² Directive 2006/32/EC on energy end-use efficiency and energy services, Art 14

³ COM (2006) 545

⁴ Directive 2002/91/EC

⁵ COM (2007) 803 final - PART I

⁶ COM (2007) 804 final

particular, is not moving fast enough, which calls for renewed high-level political commitment and involvement by heads of government.

The Community Lisbon programme 2008 -2010 (CLP) has been streamlined into a set of 10 key objectives to be accomplished by 2010. We see the inclusion of a specific objective on promoting an industrial policy geared towards more sustainable production and consumption (Objective 9) and its accompanying measures (p. 20) as a positive move. The CLP proposes to invite the European Parliament to review progress on implementing the CLP, and use this as input into the Commission's annual implementation report. This could form part of an improved governance process.

We call on the Environment Council to:

- *Express concern about the disturbingly-slow progress in implementing the environmental dimension of the Lisbon process;*
- *demand better co-ordinated civil society involvement and better communication of Lisbon strategy in national processes;*
- *seriously look into reducing Europe's high labour taxes simultaneously increasing environmental taxes, to implement the polluter pays principle. Launch such an EU-wide budget-neutral, reform, shifting part of the taxation burden away from labour to natural resource use and pollution. The Open-Method of Co-ordination is one possible way to achieve an EU-wide agreement on a 10% tax shift from labour to natural resource use and pollution to be achieved in ten years.*
- *call on the Commission to produce without further delay, a roadmap that identifies environmentally harmful subsidies, sector by sector, as requested by the 2006 EU Sustainable Development Strategy, with specific measures on phasing out those subsidies that are considered to be environmentally harmful.*
- *call for specific measures that promote the development of and market access for eco-innovative technology, goods and services, particularly in the renewable energy and energy efficiency sectors, in order to make Europe the most energy and resource efficient area in the world.*
- *commit to increase greening public procurement; Set a target for Green Public Procurement of 100% to be achieved in all Member States, by 2012.*

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ANNEX 2:

**EEB comments to the Environment Council of 3 March 2008 on
THE ENERGY/CLIMATE PACKAGE**

The EEB welcomes the package as a whole as potentially an important step towards a more sustainable demand and use of energy. It realises that the Commission has been under strong pressure, from business as well as from individual Member States, and that the outcome is a result of such pressures. While it has important positive features, it does risk to fail as the policy that will give the EU credible global leadership in climate change and therewith also ensure that it will lead to a regional and global low carbon economy, the only possible route to prevent major climate change.

So the EEB calls upon the Council of Ministers to improve the quality of the package, where needed, with focus particularly on:

- The overall EU reduction target for Greenhouse Gas (GHG) by 2020;
- The weaknesses in the proposed Emission Trading Scheme;
- The doubtful environmental quality of the biofuels proposals;
- The risk of too much focus on, and the uncertainty of 'permanent' Carbon Capture and Storage;
- The risk of a failure of the Energy Efficiency Strategy [see Annex 1].

In particular the EEB calls upon the Council to:

1. *Emphasise that due to the EU's participation in the agreement in Bali that industrialised countries have to reduce GHG emissions by 25-40% by 2020, the internal EU 20% target is no longer relevant. Continuing with a 20% target will undermine the EU international negotiation position. It is positive that the Commission has already made proposals on how to upscale the EU efforts towards 30%. The EEB proposes to start taking these proposals as a starting point immediately.*
2. *Strive for full implementation of the GHG reduction targets inside the EU, to maximise the impacts on energy efficiency, eco-innovation and changes in consumption and production patterns. This will ensure the opportunities for the EU to make further reductions after 2020 and foster the ecological industrial innovation the German government was advocating during its Presidency last year. Also, ensure that individual Member States that want to go beyond the target agreed in the EU are free to do so.*
3. *Support the full auctioning proposal for the power sector and insist on working towards full auctioning for the other sectors as soon as possible. If necessary, this should be accompanied with measures that reduce the negative competitiveness impacts of the affected industries, for example, by considering targeted border-tax adjustments, and/or by introducing environmental taxation reforms which would reduce labour costs in the affected industries while increasing the taxes on the related products according to their environmental quality (which affects both domestic and imported products).*
4. *Support the proposals on renewables with the exception for the ones related to biofuels. See Annex 3.*
5. *Work on robust legislation for Carbon Capture and Storage. See Annex 4.*

ANNEX 3:

**EEB comments to the Environment Council of 3 March 2008 on
BIOFUELS – RENEWABLE AND FUEL QUALITY DIRECTIVES**

As you will likely be aware, the EEB has developed serious concerns about the negative impact biofuels promotion can have on the environment, both inside the EU and in other parts of the world. EEB recognises the role biomass can have in sustainable energy production, but this is very much dependent on the conditions of extraction/production and use.

Our concerns have recently been confirmed by reports from, amongst others, the OECD, and by the EU's own Joint Research Centre, both of which stated that the GHG benefits of meeting a 10% target are uncertain and the costs for meeting this target are huge.

The EEB is deeply disappointed with the proposals on biofuels from the Commission as part of the Renewables Directive. It includes mechanisms for calculating the Greenhouse Gas Balance, defines sustainability standards and sets a minimum performance threshold for GHG reductions of 35%. The sustainability safeguards are completely inadequate and essentially send a signal to the market that almost any biofuel is allowed and can be used to count towards the 10% biofuel target set in the Renewables Directive. It will most certainly not be the driver for continuous increases in efficiency and environmental performance of biofuels, nor will it avoid the wider negative environmental impacts of biofuels. In addition, the obligation under the Renewables Directive will be on the Member States which means that because most Member States will reduce fuel duties, the costs of achieving reduced GHG will be borne by the public. In important contrast, the obligation under the Fuel Quality Directive will be on the oil companies, which means that costs will be borne by the consumer of oil, i.e. the polluter will pay.

With regards to the Fuel Quality Directive, negotiations will soon start in European Parliament on a possible first reading agreement. The EEB already signalled its support for such an agreement in a previous letter if the agreement incorporates a number of important safeguards, especially related to the use of biofuels for meeting the GHG reduction obligation.

The EEB calls upon you, first of all, to conclude that the Commission's proposals do not meet the conditions from the European Council of March 2007 on a 10% binding minimum target by 2020. The Council said "*The binding character of this target is appropriate subject to production being sustainable, second-generation biofuels becoming commercially available and the Fuel Quality Directive being amended accordingly to allow for adequate levels of blending.*"

The EEB points out that a 10% target for a sector which is currently responsible for 20% of GHG emissions, with a minimum efficiency of only 35% for the biofuels concerned, leads to less than 1% overall GHG reductions. This very small contribution, however, is easily neutralised by the "greenwashing" effect road transport will have for car producers and users, as it will reduce the pressure for modal shift and more efficient cars/trucks.

We call upon the Environment Council to prevent the biofuels policy from failing to contribute to climate change reduction while at the same time increasing existing environmental and social problems, in the EU and elsewhere. **In particular we urge the Environment Council to set, in cooperation with the European Parliament, tougher criteria in the Fuel Quality Directive, which then would apply to the Renewables Directive as well.** This would then also facilitate the adoption of the Renewable Directive as it would resolve what is currently probably its most controversial element.

The EEB therefore would like to again urge the Council to, in the negotiations with the Parliament on the Fuel Quality Directive, agree on:

- *meaningful sustainability standards including a minimum GHG savings of 60%;*
- *clear provisions for life cycle analysis, including direct and indirect land use changes and other environmental and social impacts;*

- *sustainability criteria dealing with impacts on water, soil and biodiversity resources as well as social criteria;*
- *a review mechanism to assess the impacts that the end target will have on the sustainability of biofuel production;*
- *a rejection of the 10% target for biofuels;*
- *scrapping the vapour pressure waiver for fuels containing bio ethanol;*
- *calling for bringing the 10 ppm sulphur content requirement of inland waterway gas-oil forward from 2011 to 2009.*

ANNEX 4:

**EEB comments to the Environment Council of 3 March 2008 on
CARBON CAPTURE AND STORAGE**

The EEB calls upon the Council to hold a thorough debate on Carbon Capture and Storage, both the Directive on the storage requirement and the enabling measures the Commission is proposing. The EEB is currently looking at the technical details in the draft Directive. However, it can already make the following comments:

- *CCS can possibly be part of climate policies, but it should not in any way reduce the attention and efforts on energy efficiency and renewables. These should become priority and both political attention and public funding should concentrate on them. CCS research should be paid for by the power-sector and other users; public funds should be used only for research necessary to determine the necessary safety, environmental and monitoring requirements. The actual investments in CCS installations have to be covered by the power-sector, triggered by the price of CO₂ emissions.*
- *EU Member States should phase out all subsidies to coal energy as soon as possible, to avoid CCS legitimising the prolonged use of coal in the EU.*
- *CCS reduces the efficiency of fossil fuels for power production by some 20%, which means that per kWh other environmental impacts than CO₂ emissions could increase by 25%, particularly those relating to mining, transport, waste generation and disposal, and emissions of pollutants to air and water. This means that for all these areas the environmental requirements need to be strengthened to prevent a negative eco-balance.*
- *The Commission proposes using the IPPC Directive for setting the requirements for the capture and the quality of the CO₂ streams. For that reason it is important that in the IPPC recast the EU settles the obligatory use of the BREFs (Best Available Technology descriptions) produced in the Sevilla Process as minimum requirements.*
- *Furthermore, the Directive should make clear what is meant by “concentrations (of incidental associated substances in the CO₂ stream) that should be below a level that wouldpose a significant risk to the environment.....” (article 12). “Significant risk to the environment” is not defined in this directive. As we have little experience with carbon storage thus far, it is necessary that there is an agreed definition, based on the precautionary principle.*
- *The Commission proposes to leave the requirements for storage to the individual governments, linking it to their obligations under the Water Framework Directive. Competent Authorities do have to seek the opinion of the Commission on permitting decisions, but they can decide not to follow this opinion. The EEB considers this problematic, as this could lead to eco-dumping inside the EU (given that the Directive would also exclude CO₂ streams from the EU waste legislation, so that it does not fall under the proximity principle). So the EEB calls upon the Council to insist on the setting of robust minimum criteria for the long term safety of storage places.*
- *The Commission proposes to include CCS in the Liability Directive. However, this Directive does not require financial security from the operators to ensure restoration of environmental damage. The CCS Directive does require financial security, but this seems not to cover restoration. It only concerns corrective measures (Article 16, defined in article 3,17) and provisions for closure and post-closure (Article 19). In our view this creates an important loophole. The Directive should ensure that operators can be made responsible for restoration or compensation for human and environmental damage due to leakages, and that companies also have to guarantee financial security for these damages.*
- *The Directive prescribes that Competent Authorities take over responsibility for the sites after closure. These Authorities will have to monitor the situation for an indefinite period. The Directive does not seem to provide a mechanism for a financial provision from the operator to compensate for this.*

ANNEX 5:

EEB comments to the Environment Council of 3 March 2008 on EURO VI REGULATION ON EXHAUST EMISSIONS FROM LORRIES AND BUSES

In late December 2007, the Commission published its EURO VI Regulation proposal, setting emissions standards for heavy-duty vehicles on particulate matter (PM), nitrogen oxides (NO_x), hydrocarbons, carbon monoxide and ammonia. EURO VI aims to help achieve the objectives of the EU's Thematic Strategy on Air Pollution, to reduce the number of premature deaths from air pollution-related diseases and to substantially reduce the area of forests and other ecosystems suffering damage from airborne pollutants. The Euro VI standards are particularly important for reducing air pollution in hotspots (e.g. along busy streets) and in urban areas, which would also help cities and Member States meet air quality limit values set in the Air Quality Directive (AQD).

EEB and other environmental NGOs, as well as industry, have welcomed the Commission's proposals for setting the standards levels. The proposed levels are ambitious and technically feasible. Despite this general support, EEB has some concerns about key elements of the proposed Regulation.

Our first concern relates to the date of applying the standards proposed by the Commission, which is currently 1st April 2013. The EEB considers this too late if air quality legislation is to be implemented in an integrated way. The AQD sets limit values on some emissions for public authorities such as cities, and these are to be implemented during 2008 at the earliest but with exemptions possible until end 2011. A later entry into force of the EURO VI regulation would work against public authority compliance with local air quality standards set in the AQD, while sending confusing messages to vehicle manufacturers about their contribution to meeting these standards. Lorries contribute significantly to urban PM₁₀ levels (about 25% at hotspots), so the synergies between the two pieces of legislation should be improved. These synergies are very important when considering the time needed to upgrade fleet vehicles and for new technologies to penetrate enough of the fleet vehicles to ensure that the AQD targets can be met.

Secondly, on particulate matter, the Commission's proposal includes a mass-based limit value for particles, to be supplemented by a particle number standard, once there is a methodology for how to set such a standard. The EEB considers this mass and number approach a good proposal because the smallest particles are most damaging for people's health (demonstrated extensively by WHO and the US EPA). Focusing only on mass-based limits would mean that vehicles could meet the limit value but still emit many smaller particles, thereby going against the objectives of the Thematic Strategy on Air Pollution.

Finally, the EEB considers the Commission's proposal on vehicle testing methods for compliance with the Regulation targets as unacceptable. Such an approach is a 'lazy' option that allows business as usual to continue, despite experience in the US, Japan and within the EU showing that vehicles getting 'clean' test results in the laboratory actually being 'dirty' in use. For example, data from Europe suggests that NO_x emission reductions predicted using the prevailing test cycle (NEDC) had worse results when the same vehicles were assessed using test cycles more representative of actual driving conditions (the CADC). The goal of emissions standards is to reduce emissions during use throughout the full range of normal operating conditions, so test methods should mimic such conditions.

Following the above, the EEB calls on the Environment Ministers to:

- *Support the proposal by the Commission on emission standards for particulate matter and NO_x, do not weaken these.*
- *Call for applying the Regulation by 2011, in line with Air Quality Directive targets and dates.*
- *Support the introduction of a particle number standard in addition to a mass-based limit value for small particles.*

- *Adopt robust enforcement measures to ensure that new vehicles manufactured under Euro VI meet emission standards throughout their lifetime under the full range of normal operating conditions. Those measures should include:*
 - *Requirements to limit emissions when vehicles are operated under typical conditions not represented by existing emissions test cycles. Therefore demand the introduction of new test-cycle methods to reflect 'real'-world emissions;*
 - *Requirements for on-board diagnostics to ensure proper functioning of pollution control equipment;*
 - *The introduction of mandatory, routine, independent testing of in-use vehicles in addition to Government-type approval; and*
 - *A recall provision for vehicle models found to be systematically non-compliant with standards.*