

Brussels, 19 November 2004.

Concerning: EU Competitiveness Council, Brussels, 25-26 November 2004

Dear Minister

On behalf of the European Environmental Bureau I would like to offer you our views on some of the issues on the agenda for the upcoming EU Competitiveness Council. I would like to invite you to take our concerns into account during the final officials' level preparations, as well as during the meeting itself. Below I present the key messages, attached you will find EEB's input for the discussions on the same topics.

1. Lisbon Process: the Kok Report

The EEB welcomed the Kok report for its balanced assessment of the relation between environment and economy. It also sees several serious shortcomings.

Main concern is that the Kok group ignores entirely the Sustainable Development Strategy, adopted by the European Council in June 2001. It is very important that the relation between this Strategy and the Lisbon process is restored, with the Strategy providing directions for the direction of the EU economy to take.

We appreciate the emphasis the Kok Group put on '*reinforcing integration of environmental considerations into the strategy*'. Its conclusion that "*Failure to act now means greater, and possibly irreversible, damage or higher remedial costs in the long term.*" The EEB calls upon the Competitiveness Council to explicitly endorse this conclusion.

We also call for endorsing the Kok Group's conclusion that environmental policies provide an opportunity for economic innovation.

Most importantly, the EEB calls upon the Competitiveness Council to agree with the following conclusion: "*Establishing an appropriate regulatory framework to allow Eco-innovations to be taken up in markets is essential. Nowadays prices are distorted in some markets, leading to a misallocation of resources and creating disincentives for investors and buyers to participate. Market prices need to reflect the real costs of different goods and services to society. This requires removing gradually environmental harmful subsidies and including progressively externalities in prices, taking account of other policy objectives such as competitiveness in the global economy and social aspects.*" We expect the Competitiveness Council to take concrete action to this respect.

Finally, we call for explicit action to support the Groups call for: “*National and local authorities [to] set up action plans for greening public procurement by the end of 2006, focusing in particular on renewable energy technology and new vehicle fuels. The Commission should facilitate the dissemination of good practice among Member States and public authorities.*”

Please see attached document the EEB launches on the 19th November with more specific suggestions for the mid-term review of the Lisbon Strategy.

2. Review of the Impact Assessment (IA) procedure

The EEB notes that recommendations of the *Report of the High Level Group on Competitiveness: Enhancing the Competitiveness dimension of impact assessment* (Council document 10688/04) do not give sufficient attention to the environment dimension of EU policies. The EEB is concerned that IA will be used as an excuse to forward a competitiveness ‘super-objective’ as a basis for IA, as was implicit in the 2004 Spring Council Conclusions. Please see attached document on EEB’s comments and recommendations on improving the IA procedure.

The EEB calls upon the Competitiveness Council to take into account the work of the Commission’s Inter-Service Impact Assessment Working Group on assessing how the impact assessment is working and outlining the next steps the Commission intends to take in order to improve the current practice (*Commission Staff Working Paper. Impact Assessment. Next Steps*; SEC (2004) 1377). The EEB acknowledges that the idea and approach behind the use of IA is a good one and stresses the importance of IA as a tool to improve policy coherence and to lead to better policy proposals. In light of this, EEB finds the Commission’s document more balanced in its consideration of the three dimensions: environment, economic and social, but acknowledges that the document has some weaknesses. Notably, the use of ‘external expertise’ in IA raises concern of undermining the environmental and social dimensions due to a potential heavy reliance on the use of industry-supported/sponsored experts to conduct analysis, data gathering (e.g. REACH).

3. REACH

The EEB welcomes the Commission proposal as a regulatory framework for chemical safety management, but believes that improvements are needed to ensure that human health and environment benefits are fully realised.

With respect to the Presidency's discussion points the EEB calls upon the Competitiveness Council to:

- End the work on predicting about the future costs of REACH. It is better to focus on how REACH is implemented and how to increase benefits for the environment and human health. SMEs could benefit through Council showing a political commitment to create supporting measures from national authorities, e.g. providing guidelines and practical assistance.
- Support mandatory sharing of vertebrate test data, and consider further sharing of data, as outlined in the UK's "one substance - one registration". Such a system would ensure better compliance with the registration requirements, make registration easier for SMEs and should create a reliable and agreed safety profile for each substance. However, it has to be ensured that a producer's responsibility is retained even if they are a member of a consortium.
- Support the extension of data requirements for the chemicals produced at below 10 tonnes per annum, in particular restore the requirement for three in vitro tests and a chemical safety report. Without such information workers and the environment cannot be effectively protected and would not be sufficient for proper classification and labelling. Moreover, sufficient information about these 20.000 substances is also necessary for finding safer alternatives in the process of replacing hazardous substances.

Yours Sincerely,

John Hontelez
Secretary General
European Environmental Bureau.



**EEB CONTRIBUTION TO DISCUSSION ON
*Future of the Lisbon Process,
the contribution of the Kok Group***

- a. Lisbon and the Sustainable Development Strategy
- b. The contribution of the Kok Group
- c. EEB's call for action to Commission, Council and Parliament

A. LISBON AND THE SUSTAINABLE DEVELOPMENT STRATEGY

We made progress from Lisbon to Gothenburg.....

In June 2001, the European Council agreed on a strategy for sustainable development and added an environmental dimension to the Lisbon Process for employment, economic reform and social cohesion. The basis for the Council Conclusions was the Communication *'A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development'* published in May 2001.

The European Council, amongst other things, said:

'Sustainable development – to meet the needs of the present generation without compromising those of future generations – is a fundamental objective under the Treaties. That requires dealing with economic, social and environmental policies in a mutually reinforcing way. Failure to reverse trends that threaten future quality of life will steeply increase the costs to society or make those trends irreversible.'

'Clear and stable objectives for sustainable development will present significant economic opportunities. This has the potential to unleash a new wave of technological innovation and investment, generating growth and employment. The European Council invites industry to take part in the development and wider use of new environmentally friendly technologies in sectors such as energy and transport. In this context the European Council stresses the importance of decoupling economic growth from resource use.'

'The Union's Sustainable Development Strategy is based on the principle that the economic, social and environmental effects of all policies should be examined in a coordinated way and taken into account in decision-making. 'Getting prices right' so that they better reflect the true costs to society of different activities

would provide a better incentive for consumers and producers in everyday decisions about which goods and services to make or buy.'

.....let's not reverse that progress!

As sustainable development is a fundamental objective laid down in the EU Treaties and Constitution, the EEB expects the new European Commission to take these commitments seriously and put sustainable development at the heart of its strategic objectives from the start, integrating the Sustainable Development Strategy (SDS) of 2001 in these objectives, reinforced where necessary. Furthermore, we want to emphasize that, in addition to a domestic obligation, we have global responsibilities. The EU has to lead by example with respect to sustainable production and consumption patterns which were at the core of the Rio commitments in 1992 and were again endorsed in Johannesburg in 2002.

Putting sustainable development at the heart is an essential step for a Commission that wants to lead the EU in the spirit of the new Constitution, truly serving its citizens, with responsibility to the earth and its peoples, and with a courageous and creative vision on economic modernisation. In particular the further implementation of the Lisbon Strategy should be brought in line with the SDS.

Creating synergies

A coherent approach to sustainable development offers opportunities for environmental, social and economic improvements at the same time, but synergies do not arrive automatically. Too long, traditional tunnel thinking has been applied which leads to one-dimensional solutions with trade-offs for the other dimensions. It takes creativity, innovative approaches and political courage to force a breakthrough where economic, social and environmental policies are combined into new solutions.

At the end of 2003, the EEB with ETUC and the Social Platform published a Manifesto called '*Investing for a Sustainable Future*'. These three large umbrella organisations, representing environmental, social and economic interests, called both for macro-economic policies and specific investment programmes that lead to synergies for social, environmental and economic (employment) objectives. In a separate publication, '*Investing for a Sustainable Future, from best practice to common practice*', we described concrete existing examples to underpin our demands.

In July 2004, the Dutch EU Presidency held an informal Environment Council for a large part devoted to eco-innovation, under the title: '*Clean, Clever, Competitive*'. The underlying research, workshops and papers offered a wealth of information and examples on business initiatives, barriers, policies and instruments that enhance eco-innovation. The suggestion is that a mix and

combination of instruments is needed: subsidies, loans, fiscal facilities, regulation, benchmarking, procurement, green taxes and funds can all contribute.

B. THE CONTRIBUTION OF THE KOK GROUP

The report of the Kok Group, published on 3 November 2004, does not question the main objective of the Lisbon Process, that the EU should become the most competitive region in the world by 2010. Using as a main indicator a comparison in GDP/capita with the USA, this remains a problematic objective. This orientation represents economic development in terms of the survival of the fittest, neglecting the fact that we are human beings with the intellectual capacity to organise the world in a different manner as well. And this is relevant because the survival of the fittest in the modern context could well mean increased over-exploitation of the world's environment, the marginalisation and impoverishment of large populations, and increased tensions between people. In other words, this is a risky path to take. A safer road to take, obviously demanding much more political leadership, is the one promoting global sustainable development, in partnership with other countries of the world.

However, the Kok Group did not, as some feared, promote economic progress blindly at the cost of other values. With regard to the social agenda, the EEB wants to rely on the judgements of citizens' organisations working on (parts of) that agenda. With regards to the environment, the Kok Group brought a mixed, but on balance positive message.

The most clear negative element is the Kok Group's unqualified support for the Quick Start Programme for priority infrastructural projects. This Programme includes projects with a clear negative impact for environment and biodiversity.

The issue of reducing burdens for business and industry is being dealt with carefully. The report speaks more about administrative than about legal burdens. It does not single out environment as a specific area of concern. But in presentations a less nuanced version is presented.

However, the Kok Group does confirm that environmental protection is a core objective for the EU and a key value in its own right: *'[...] the case for reinforcing integration of environmental considerations into the strategy is strengthened by the need to seriously address the existing pressures on the environment in order to avoid damage to health, biodiversity, property, and economic activity, now and in the future. Failure to act now means greater, and possibly irreversible, damage or higher remedial costs in the long term.'*

It states that the contribution of environmental policies to social and economic objectives is not a 'conditio sine qua non', but an opportunity which has been so far too little acknowledged, explored and stimulated.

The Kok report, like the Dutch Presidency, focuses on the synergy between economy and environment. The EEB wants to underline that the social

dimension is equally important. Groups in a social weaker position in our societies are on average more exposed to environmental risks, have relatively higher energy costs and have a less pleasant living environment, making it more urgent to seek win-win solutions for them.

The report suggests that eco-innovation can contribute to economic objectives. In its key recommendations it singled out a few specific instruments for enhancing eco-innovation: Environmental Technology Action Plan (ETAP) implementation, (green) risk capital for SMEs, removal of harmful subsidies and national and local action plans for public procurement. It promotes internalisation of costs.

'Establishing an appropriate regulatory framework to allow eco-innovations to be taken up in markets is essential. Nowadays prices are distorted in some markets, leading to a misallocation of resources and creating disincentives for investors and buyers to participate. Market prices need to reflect the real costs of different goods and services to society. This requires removing gradually environmental harmful subsidies and including progressively externalities in prices, taking account of other policy objectives such as competitiveness in the global economy and social aspects.'

It also calls for specific investment promotion policies, including tax exemptions for green investment funds, as practised in the Netherlands.

Finally, the report very clearly calls for using public funds to stimulate eco-innovation: *'National and local authorities should set up action plans for greening public procurement by the end of 2006, focusing in particular on renewable energy technology and new vehicle fuels. The Commission should facilitate the dissemination of good practice among Member States and public authorities.'*

C. CALL FOR ACTION TO COMMISSION, COUNCIL AND PARLIAMENT

The EEB calls upon the new European Commission and the Spring Council 2005 to take the following actions, and the European Parliament to insist on, support and monitor these:

1. Tackle the SDS implementation deficit

First of all, the 2005 Spring Summit should recall the obligations of the Council and the Commission in the field of sustainable development, reaffirm its commitment in general and demand a more specific, accountable and monitorised action plan with operational targets and timetables.

2. Make markets really work for sustainable development: mobilize the purchasing power of public authorities

National governments are now adapting rules to conform to the new EU public procurement legislation agreed in 2004. This EU legislation gives scope to governments and public authorities to promote sustainable public procurement, but it does not make this a requirement.

So, governments have a choice – will they make the most of the possibilities to contribute to sustainable development and create rules that encourage authorities to buy sustainable goods and services? Or will they side-step their commitment to sustainable development and create rules that put obstacles in the path of public authorities that want to do so? The European Commission and Council need to make sure that governments apply systematically high environmental and social standards when asking for tenders.

3. Harmful subsidies: from words to deeds

For too many years now we have seen Council Conclusions and many other important documents repeatedly recommending the abolition of harmful subsidies. There are impressive lists of subsidies eligible for abolition. The lack of concrete progress is becoming more and more embarrassing. The EcoFin Council should finally be put to work on this, given a deadline of March 2006 to finalize a determined strategy, with the full involvement of the Environment Council.

4. Investing for sustainable development

Government is a large spender. Apart from green public procurement, it can also deliberately set up projects or financially support projects which, in an innovative manner, contribute positively to all three dimensions of sustainable development.

5. Make markets really work for sustainable development: many other options

Internalisation of costs, tax shifts, fiscal facilities, subsidies, green loans, regulation which drives innovation by setting higher performance standards: we need more coherent actions in this field, at EU level, and at national level.

6. Pay special attention to the new Member States

In the new Member States of the EU the economic and social situation contributes to a strong temptation to focus on (traditional forms of) economic growth first and care about the environment later. This could lead to irreversible deterioration of biodiversity and increase of other environmental and health problems, which by themselves might limit the future prospects for sustainable development in these countries. As the Kok Group report said: *'Failure to act now means greater, and possibly irreversible, damage or higher remedial costs in the long term.'* The Lisbon process should pay special attention to this particular challenge.

7. Promote an ongoing exchange of new ideas

New ideas and initiatives concerning the different aspects of the concept of sustainable development should constantly be picked up and their potential impact should be examined. Ideas with promising potential need to get the necessary financial and political backing for further exploration and implementation.

8. Resist the pressure for deregulation at the cost of the environment

While it is possible and indeed necessary to reduce administrative burdens where they have become pointless, existing environmental policies should not be undermined for competitiveness reasons, nor should future legislative steps be hindered by scaremongering about perceived impacts on competitiveness.

9. Demystify the relation between environment and competitiveness

Listen to the OECD when it says: *'Environmental policies can affect production costs with consequences on the competitiveness of specific sectors or industries. The perceived negative impacts on international competitiveness of the most affected – and often most polluting – sectors is often a major concern. It is, however, important to distinguish clearly between the competitiveness of individual companies and sectors of the economy, and that of the whole economy in general. Competitiveness will have a different meaning at each level. A company or sector is competitive if it is able to compete in international markets, with a satisfactory rate of return. For a country as a whole, the concept of competitiveness is more complex. At the economy-wide level, correcting for market failures – for example, by introducing taxes to reflect the costs of environmental externalities – provides an improvement in overall economic productivity. While it may represent increased costs for one firm or industry, it*

may lead to reduced costs for others. When evaluating a particular policy, the effects on the economy as a whole should be considered, not just the effects on individual sectors. With all policy reforms, there are likely to be winners and losers in the short term. These impacts can be addressed through flanking measures – for example, to smooth the transition for affected workers to new employment opportunities – but their existence should not hamper the realisation of the longer-term economy-wide environmental and economic efficiency benefits that can be achieved through implementing the policy changes.’ [from ‘Issues Paper’ to Meeting of Environment Policy Committee at Ministerial Level, 20-21 April 2004, OECD].

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Secretary General

19 November 2004

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EEB's Recommendations to the Competitiveness Council on the Review of the IA procedure.

The EEB calls on the Competitiveness Council to:

- Encourage the Commission to develop a Guidance document on the use of external expertise in a timely manner
- Support the Commission on establishing a **clear sustainable development objective** and emphasise that every Directorate General (DG) have its own agreed policy to delivering the EU Sustainable Development Strategy. All IAs should start with clear sustainable development objectives, where possible derived from the EU Sustainable Development Strategy, clarified for the respective DG in this specific policy.
- **Support an application IAs for all policies and make them an integral part of the stakeholder consultation process:** Every policy should be assessed on its impacts - only the level of detail should depend on the specific policy. While at the scoping phase an IA could consist of a rather simple qualitative statements/justifications for the different policy options, at later stages, with increasing level of detail of the possible policy actions, qualitative and quantitative parameters in more complex assessment frameworks need to be used.
- **Support the Commission's initiative to improve IA methodology:** going further to developing an assessment guideline that forces all involved parties to consider costs and benefits at all levels (company/individual people/specific species to EU economy/society/ecology). The guideline should ensure equal attention to less tangible impacts such as health and environmental benefits, as well as a focus on environmental impacts of non-action. A clear-cut criterion should be applied to determine when cost-benefit analysis is inappropriate due to its limitation of focusing on monetization of impacts, which is not always possible or appropriate. For such cases a special analytical tool should be developed and its strengths and limits should be explicitly explained.
- **Ensure full transparency, data verification and validation to increase acceptability:** IAs must be designed in a way to allow stakeholders to

challenge the different interpretation and aggregation levels. Therefore access to model parameters and raw data should be ensured.

- **Support investment in Impact Assessment:** consider IA as an important element of determining effective EU policies. Invest sufficiently in staff to make IA a process that goes on during the entire policy formulation and decision-making process. Extra resources are required to cover the undertaking of IAs, training and effective quality control. Consideration should be given to establishing a central quality control unit within the Secretary General's office or outside the Commission. A focus on resources is particularly relevant in view of the fact that in 2005 the number of IAs will increase dramatically.
- **Ensure improvement in stakeholders' role and participation:** the Council should encourage the Commission to provide timely, adequate information and allow for sufficient time for stakeholders' inputs. Furthermore, the Commission should facilitate, including financially, the participation process of non-commercial interest groups to ensure a 'balanced' representation of stakeholders. Finally, the Commission should publish how and to what extent stakeholders' views have been incorporated into the final policy (proposal), and, when not, the Commission ought to give reasons – as is required under the current Commission Guidelines. We welcome the Commission's IA website, which allows for public access to progress on the IA process and its relevant documents. On the other hand, the EEB wants to warn against the exclusive or predominant use of the Internet for consultations. We do appreciate that such consultations exist, but they cannot replace direct discussions, exchange of views, between stakeholders and the persons responsible for drafting the policies in the form of working groups, seminars etc. Internet consultations are simply not inter-active enough. Therefore, the Commission should facilitate and give preference to other modes of consultation, that allows for stakeholder interactions and exchange of views.

EEB's Concerns and Recommendations on the Report from the Council High Level Group on Competitiveness and Growth *Enhancing the Competitiveness dimension of impact assessment*¹:

The EEB is concerned about some aspects of the recommendations offered by the Council High Level Group on Competitiveness and Growth, in particular its apparent exclusive aim to make IA a 'competitiveness proofing' tool as opposed to a tool to enhance sustainable development, within the context of the EU SDS.

¹ Enhancing the Competitiveness dimension of impact assessments – information on the work undertaken by the High Level Group on Competitiveness and Growth. 10688/04, COMPET 102. July 6, 2004.

- **Recommendation 1:** EEB has strong reservations about the 3 pillars approach. This approach fails to take into account the direct inter-linkages between the three dimensions. The environmental dimension represents the carrying capacity of nature on which society is built. The social dimension represents the aims of human activities, and the economic dimension represents the tool to realise these. Thus, environmental and social objectives and impacts should guide decisions with regards to the economy, rather than pleading for trade-offs between these three dimensions. At the moment the opposite is happening, economic considerations tend to dominate the two other dimensions.
- **Recommendation 2:** Many EU policies have impacts beyond the EU territory. The EU should assess these impacts and avoid unwanted negative impacts. EEB's analysis of 2003 and 2004 IAs shows that the external dimension has not found a systematic place yet. Assessing international impacts should ensure that the impacts on external social, environmental and economic developments, in particular in developing countries, are all being addressed.
- **Recommendation 3:** a focus on employment as the major social impact creates an exclusive bias for this element at the expense of other important social impacts such as health and quality of life. The Council should ensure that social impacts covered during IAs reflect those written in the Commission's Guideline document.
- **Recommendation 4:** a welcome recommendation - in principal this falls within the requirements of the Commission's Technical Handbook, but the focus should not only be on the economic sector but also on how to avoid contradictions and additions of policies within the environment and social sectors, and between the economic and environment and social sectors.
- **Recommendation 5:** EEB welcomes the proposal to improve the IA methodology and is in favour of 'making explicit the analytical framework that has been used to assess and to identify the trade-offs between alternative policy options', but on the 'method used to compare impacts' our recommendation is the same as above, thus: develop an assessment guideline that forces all involved parties to consider costs and benefits at all levels (company/individual people/specific species to EU economy/society/ecology). The guideline should ensure equal attention to less tangible impacts such as health and environmental benefits, as well as a focus on environmental impacts of non-action. A clear-cut criterion should be applied to determine when cost-benefit analysis is inappropriate due to its limitation of focusing on monetization of impacts, which is not always possible or appropriate. For such cases a special analytical tool should be developed and its strengths and limits should be explicitly explained.

- **Recommendation 6:** EEB welcomes proposals to improve stakeholder participation at the pre-legislative stage as a means to ensure continuous public participation in the policy making process. To secure this, the Council should urge the Commission to facilitate such participation, if necessary, through financial assistance to stakeholders from sectors such as NGOs.

For the EEB,
John Hontelez
Secretary General
European Environmental Bureau.



GREENPEACE



**To: Environment, Economy, Industry, Trade and Health
Ministers of the European Union
CC: Permanent Representations**

**New EU Chemicals Policy (REACH) discussion at
Competitiveness Council 25/26 November 2004**

Brussels, 18th of November 2004

Dear Minister,

One of the subjects you will discuss in the Competitiveness Council meeting on the 25/26th of November 2004 is the Commission's proposal for a reform of Europe's chemical policy (REACH). In our view REACH is a key element to achieve the common goal of sustainable development and is also a crucial issue when it comes to consumer and environmental protection.

We would like to bring to your attention our concerns and comments on the issues proposed for debate by the Dutch Presidency:

1. Conclusions and recommendations of the Workshop on Impact Assessment

We believe that there is no need for further impact assessment work, as the NL overview of 36 Impact Assessments has shown the impossibility of predicting with appropriate certainty the future costs of REACH. It is better to focus on how REACH is implemented than on further impact assessment studies.

The conclusions of this workshop emphasise the importance of the development of good guidance and support to industry and the development of good IT systems to simplify the process. We support these conclusions, and encourage Council to ensure that Member State experts have the capacity to take part in the REACH implementation plans that the Commission is already working on.

We also consider that SMEs could benefit through Council showing a political commitment to create supporting measures from national authorities, e.g. providing guidelines and practical assistance.

We are disappointed that the workshop did not make any proposals on how to increase benefits for the environment and human health from REACH.

2. Agreement on and joint submission of data including cost sharing

We support the Commission's proposal for mandatory sharing of vertebrate test data, but we also consider that further sharing of data, as outlined in the UK's "one substance - one registration" principle would also be beneficial. Such a system would ensure better compliance with the registration requirements, make registration easier for SMEs and should create a reliable and agreed safety profile for each substance.

However, it has to be ensured that a producer's responsibility is retained even if they are a member of a consortium.

3. Information requirements for low volume substances

We support the extension of data requirements for the chemicals produced at below 10 tonnes per annum. In particular, we wish to see the restoration of the requirement for three in vitro tests and a chemical safety report, which were removed after the internet consultation. This data will help to ensure the effectiveness, not only of REACH, but also of the complementary legislation on workers health. Without sufficient information - including biodegradability tests - workers and the environment cannot be effectively protected. This extra data would come at a comparatively low cost (e.g. see 'True costs of REACH' study, , whilst the benefit will be considerable.

At the moment the draft proposal's requirements for the registration of low volume chemicals do not even provide enough information for proper classification and labelling. Moreover, sufficient information about these 20.000 substances is also necessary for finding safer alternatives in the process of replacing hazardous substances.

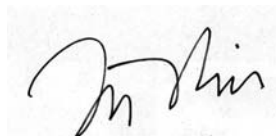
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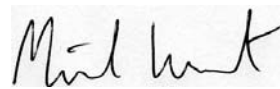
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