



## **EEB PRIORITIES FOR THE EUROPEAN UNION FOR 2016**

**Addressed to the Governments of the Netherlands and Slovakia  
in anticipation of their forthcoming Presidencies of the European Union  
as well as the European Commission**

**April 2015**

**Prepared in cooperation with BirdLife Europe and Seas At Risk**

### **CONTENTS**

- 1. Sustainable development as the overarching framework**
- 2. Avoiding harmful international trade and investment agreements**
- 3. Reducing air pollution**
- 4. Fighting climate change and improving energy security**
- 5. Creating a circular economy through better management of resources and product design**
- 6. Improving environmental governance**
- 7. Protecting biodiversity and ecosystems**
- 8. New steps to chemical safety, including nanotechnology and mercury**
- 9. Towards a sustainable food and farming policy**

## INTRODUCTION

In this paper, the European Environmental Bureau presents its views, developed in cooperation with Seas At Risk and BirdLife Europe, on those issues that are expected to dominate the EU environmental policy agenda in 2016.

The presentation in early 2015 of the European Environment Agency's (EEA's) landmark State of the Environment report left little doubt on both the scale of the problem to be solved but also about the many viable solutions – solutions which build on 40 years of successful EU environmental policy, that have not only delivered significant improvements but have brought plenty of additional benefits including growth in jobs and new markets.

The EEA report was launched only months after the sweeping introduction of ten new political priorities by the Juncker Commission in 2014 which virtually neglected environmental considerations other than climate change. This led to the adoption of a Commission Work Programme for 2015 that failed to include any constructive proposals for the development of EU environmental policy other than participating in an ongoing international negotiation for a new climate treaty and which seemed to take the protection of Europe's most polluting, least innovative parts of industry as its highest priority. Two of the main environmental outcomes of the final year of the Barroso II Commission, legislative proposals on air and waste, were threatened with withdrawal despite being already in the co-decision process.

Unsurprisingly, the pushback to this from the European Parliament and environmental NGOs as well as leaders in the progressive business community was immediate and sharp. As a consequence, the threatened air package was not withdrawn; the waste package was withdrawn but under a promise to deliver something new and more ambitious. Whether this should be seen as an indication that the new Commission is willing to review its initial political priorities and give due recognition to environmental sustainability among those priorities will become clearer after it has presented a new proposal on circular economy and waste, presented its plans for 'Better Regulation' and adopted its Work Programme for 2016 which it has been asked by the Council to do in a more cooperative manner than was the case with the 2015 Work Programme. Among the various elements that are expected to be part of the 'Better Regulation' package, a revised inter institutional agreement on better lawmaking is envisaged. It will be essential that this ensures that the anti-regulatory bias in the existing agreement is addressed and that the Environment Committee in the European Parliament and the Environment Council formation will play a central role in making environmental protection one of the EU's highest priorities for the next 5 years.

The priorities indicated here concern the environmental and environment-related issues that we consider will or should be on the political agenda in 2016 and how we believe they should be addressed.

## **1. ESTABLISHING SUSTAINABLE DEVELOPMENT AS THE OVERARCHING FRAMEWORK**

Europe has for a number of years had some ambivalence towards the concept of sustainable development. At a rhetorical level, Europe strongly endorses the concept, presents itself as a leader in the global debate on sustainable development; and indeed has been one of the more progressive forces among the developed countries in that debate. On the other hand, since the economic crisis began in 2008, European leaders have increasingly tended to prioritise short-term economic considerations over environmental (and social) ones, leading to a gradual slowdown in environmental policy initiatives during the Barroso Commission, which now seems to have worsened under the Juncker Commission. Furthermore, Europe continues to consume considerably more than its fair share of the Earth's resources and outside planetary boundaries, without demonstrating a serious commitment to reduce its ecological footprint within the short to medium term to the extent required to allow the poorest countries the 'environmental space' to develop.

Putting recovery from Europe's economic crisis at the heart of all policies is important but it must be done in a way that secures sustainability from environmental and social points of view as well. Interestingly, the Barroso Commission itself carried out several processes that clearly showed that stricter environmental policy makes economic sense also in the short run by boosting for example employment and stimulating innovation, something that was reflected in the 7 EAP as well as in the conclusions from the European Resource Efficiency Platform. Scientific and other studies increasingly support this understanding, including reports from the 2007 German and 2009 Swedish Presidencies, as well as from the ongoing New Climate Economy project. The latter has for example pointed out that air pollutants from the 15 countries being the largest emitters of GHG cause health damage costs amounting to some 4 percent of GDP annually, about 400 times higher than the expected gains from a TTIP agreement in the best of scenarios so far presented. Further examples of environment-economy win-win strategies would be to phase out costly public subsidies to fossil fuels and to carry out environmental tax reforms that put a price on emissions and lower taxes on e.g. employment.

Similarly, heightened concerns over energy security, following civil wars and unrest on the EU's borders in Ukraine, Syria and Libya where access to natural resources plays a crucial role, coupled with increased awareness around security of supply of food and raw materials for European industry, have strengthened the realization that continuing European overconsumption at current levels is no longer an option and that transitioning towards a comprehensive sustainable economic system is essential. It is thus crucial to recognize the link between the sustainability of the economy and the health of the environment, and that any economic recovery strategy must take full account of social and environmental considerations.

With international negotiations on a framework for the sustainable development goals expected to reach a conclusion in late 2015, it is essential that Europe steps up and starts to prepare the implementation at European level too. This implies the institutionalisation of the treaty-based objective of sustainable development in the governance structures at EU and member state level. The revival of National Strategies of Sustainable Development, together with national councils for sustainable development or equivalent bodies (with active civil

society participation) is an important tool to achieve national results and review mechanisms for the implementation of the SDGs.

The SDGs provide an opportunity and indeed an obligation for Europe to look at its own model of development and steer it in a sustainable direction. It should also support developing countries to achieve a decent standard of living without repeating the mistakes made by the developed world. A completely new narrative on development has to be put in place, where achieving well-being, social and environmental justice and respect for human rights enjoyed within planetary boundaries will replace the focus on material wealth.

Europe's most well-known high-level political instrument, the Europe 2020 Strategy on competitiveness and growth has some elements relating to environmental sustainability but cannot be considered to be a sustainable development strategy. On the other hand, the official EU Sustainable Development Strategy has been given little attention, with the Commission having resolutely ignored calls by the Council for its review. It is essential that the Europe 2020 strategy is transformed and re-oriented to become a strategy that is consistent with the overarching goal of sustainable development.

On the other hand, as Europe 2020 will remain a growth strategy with a relatively short time horizon, a renewed EU SDS is needed with a 2030 timeframe, not least in order to support the concrete implementation and monitoring of SDGs. It must also be given a central status in multi-sectoral policymaking, promoting policy coherence. Introducing a new SDS could to some extent compensate for and address the failure by President Juncker to give environmental protection a central place in his ten political priorities.

As the SDGs are universal, the year 2016 will be crucial to start with the overall implementation of all the goals. The EU and the member states have to be conscious that these goals are also reaching further than the responsibility of ministers of development and environment. Also ministers for finance, agriculture, fisheries and maritime affairs, social affairs, and employment need to take responsibility for making a success of the implementation. Governments at large should be held accountable. That is why it is so important that all governments create inter-ministerial structures to support synergies and avoid overlap and incoherence. For the EU, the same challenge exists to coordinate existing policies and strategies in all EU institutions and their different formations and departments and put more emphasis on overall Policy Coherence for Sustainable Development.

In 2011 the EU embarked on a new approach to economic governance through the 'economic semester'. The primary driver for this exercise was the euro-crisis and the need to restore investors' confidence in the euro. The focus in 2011 was therefore strongly on balancing national budgets and cutting deficits. In the subsequent years, the focus of the semester became broader, aiming to align national budgets and national reform programmes with the EU 2020 objectives, until in 2015 when the focus again was placed on macro-economic reform. In 2016, it will be important to ensure that this tool is further developed and improved. First of all, the process should be used to make the economy more sustainable and fair, inter alia through promoting a shift in the tax base from labour to pollution and resources, and through phasing out environmentally harmful subsidies, while protecting against adverse social effects and short sighted cuts in investments in environmental protection and public services. We also strongly support to integrate

environmental accounting in the national budgets. Second, the Semester should become more transparent and democratic with a stronger role for the European Parliament.

In case no agreement will be reached in 2015 on a new inter-institutional agreement on better lawmaking, the debate will continue under the Dutch and Slovak Presidencies. It will be important to ensure that the anti-regulatory bias in the existing agreement is addressed, that joint efforts of the three institutions in developing a common multi annual work programme ensure the full and effective involvement of all relevant Committees in the European Parliament and formations of the European Council and more generally that such a new agreement will facilitate the development and implementation of a new sustainable development strategy.

**We therefore call on the Dutch and Slovak Presidencies to:**

- Reap the mutual benefits for environment and economy by initiating and leading a process on the concrete transition of the current unsustainable model of economic development, including promoting a transformation of consumption and production patterns in the EU to an economy that respects planetary limits and that strengthens poverty eradication and livelihoods in the Global South;
- Encourage the European Commission to use the foreseen revision of the Europe 2020 Strategy to align it with true sustainability principles that give environmental protection a central place in the work of and all proposals from the Commission;
- Call on the Commission to develop an EU SDS, which as a minimum fully delivers on the SDGs and takes account of the latest scientific information on the state of the environment worldwide;
- Ensure that the European semester is used to give maximum support to the transformation to a green and fair economy, most importantly through socially just environmental fiscal reform and the removal of environmentally harmful subsidies;
- Promote coherence between all European policies and strategies and sustainable development objectives, inter alia by seeking a strengthened role for sustainability considerations in the Commission's internal impact assessment process and introducing a general 'environmental improvement obligation' that requires that all new policy initiatives should lead to improved environmental protection if not environmentally neutral.

## **2. AVOIDING HARMFUL INTERNATIONAL TRADE AND INVESTMENT AGREEMENTS**

Despite stated political commitment from the European Council to close a deal with the US on a Transatlantic Trade and Invest Partnership (TTIP) by the end of 2015, this deadline is considered as highly unrealistic by most involved and negotiations are certain to continue in 2016.

Our primary concern about this possible Treaty lies with proposals on regulatory cooperation between the EU and US, which would seek to eliminate regulatory distinctions that often serve public policy goals as well as proposals to include an Investor-State Dispute

Settlement (ISDS) mechanism. The latter would put all of US-EU investment under ISDS 'protection' compared to 7% today under existing treaties between nine EU Member States and the US and thereby risk undermining public policy making. These proposals mirror closely those made by the Transatlantic Business Council.

Such a framework would seriously weaken critical consumer and environmental safeguards, and conflict with the democratic principle that those living with the results of regulatory standards – citizens of our countries – should be able to set those standards through a democratic process, even when doing so results in divergent standards that business may find inconvenient. Proponents of TTIP have consistently argued that Europe's standards will not be lowered but this is disingenuous at best. The effectiveness of standards depends as much on how the law is written as on how it is implemented. This means that regulatory cooperation regarding the implementation of laws, e.g. on chemicals, would very well be able to slow down the achievement of environmental objectives without changing a single letter in the law.

Just as important, a potential agreement between the United States and EU must not under any circumstance include an ISDS mechanism, whether in current form or a reformed one. Investors should not be empowered to directly challenge sovereign governments over public interest policies in offshore tribunals which are typically comprised of three private sector attorneys, skirting the well-functioning domestic court systems and robust property rights protections in the United States and European Union. The inclusion of such extreme provisions in prior trade and investment deals has enabled powerful interests, from tobacco companies to corporate polluters, to use investor-state dispute resolution to challenge and undermine consumer, public health and environmental protections. Investor-state tribunals have ordered taxpayers to compensate foreign corporations with billions of dollars for the domestic, non-discriminatory enforcement of such protections. From all cases known to date, in 60% of them the companies won or the government settled and paid out. However, the impact of ISDS mechanisms cannot only be measured by such cases, but also by the potential 'chilling' effect of an ISDS on the development of new legislation or implementing measures. To avoid such overreaching procedural and substantive investor privileges, greater than those available to domestic firms in either the United States or the EU, any deal must exclude investor-state dispute resolution. It is noteworthy that Australia and the US in their recently signed trade agreement did not include such a provision and an increasing number of countries around the world are opposing this including by stepping out of such agreements as Indonesia did recently.

In response to the consultation on ISDS that the Commission carried out, a debate will start in 2015 and can be expected to continue into 2016 about proposals to reform the ISDS system or to replace it altogether with alternative approaches. We consider however that the reform proposals made by the Commission in its consultation papers as well as in its analysis of the results will not be able to address the fundamental perverse effects of the system. The only sensible course of action remains the exclusion of ISDS from TTIP as well as other pending trade agreements. An often heard argument from TTIP proponents that ISDS is needed in TTIP in order to be able to include it in an upcoming deal with China does not stand up to the least scrutiny. Most crucially it seems to ignore the fact that direct investment from China into the EU is rapidly growing and that most Chinese investors are either State firms or State controlled. Having ISDS in an EU-China deal would provide the Chinese

government with means of leverage which European politicians would have good reason to doubt is in the EU's interest. Another frequently heard argument that ISDS is needed for EU investors to have their rights respected in US courts is very thin. A recent paper found for example 'little evidence to suggest that investor-state arbitration will provide the EU with meaningful benefits'<sup>1</sup>.

Finally, it is also essential that a proposal from the Commission to introduce a streamlined procedure to amend the sectoral annexes of TTIP or to add new ones, through a simplified mechanism not entailing domestic ratification procedure, is rejected since this would allow negotiators to simply postpone agreements on some of the most controversial issues and include them later without the scrutiny of the European Parliament or Member States.

Whereas the EU-US negotiations are at a relatively early stage, negotiations on a comprehensive economic and trade agreement (CETA) between the EU and Canada have been concluded, and in those negotiations it has been agreed to include a provision on investor-state dispute resolution, despite the Commission's Sustainability Impact Assessment advising against this, which is a matter of great concern, in particular since it was the EU in those negotiations who was insisting on this the most. EU Ministers will most likely need to decide in 2016, along with the European Parliament, if they will support this deal or not.

**We therefore call upon the Dutch and Slovak Presidencies to:**

- Reject the almost agreed deal between the EU and Canada (CETA);
- Insist that the Commission opens up further the information about the ongoing TTIP negotiations in line with recommendations by the European Ombudsman, organizes public consultations on all relevant issues (in particular proposals for regulatory cooperation and 'a living agreement') and schedules in a 'pause and reflect' moment in the negotiations on TTIP following the completion of the sustainability impact assessment that includes the option to discontinue the negotiations;
- Ensure an integrated approach to the TTIP SD chapter that spells out how sustainable development provisions within different sector chapters will operate;
- Work to ensure that TTIP excludes mechanisms for regulatory cooperation, investor-state dispute settlement, fast track ratification as well as deeper forms of regulatory cooperation in the field of energy, climate, chemicals, agriculture and food, and other areas where environmental policy risks to be weakened;
- Stand ready to reject a final TTIP deal should it fail to exclude any of the above contentious issues.

### **3. REDUCING AIR POLLUTION**

Air pollution is the leading environmental cause of deaths in the European Union (EU). Each year, over 400,000 Europeans die prematurely because of air pollution. This comes on top of illnesses, reduced quality of life, extra medication and hospitalisations and around hundred million of lost working days. In cities, more than 90% of people are exposed to levels of air pollution above the World Health Organisation's (WHO) recommended levels.

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<sup>1</sup> Available at: <http://www.ceps.eu/book/transatlantic-investment-treaty-protection>

The health-related economic costs of air pollution are enormous, amounting to between €330 and €940 billion for the entire EU in the year 2010 alone. This includes €15 billion from lost workdays and €4 billion from healthcare costs. The latter are ‘only’ linked to treatments of chronic bronchitis while the total health bill is likely to be substantially higher.

Air pollution also damages Europe’s nature and biodiversity. Almost two thirds of the total EU area is under severe threat from nitrogen eutrophication and 200,000 km<sup>2</sup> of sensitive forests and freshwater ecosystems still suffer from excessive acidification. Agricultural crops and natural vegetation are damaged by high levels of ground-level ozone. Other air pollution damage includes deterioration of historical and modern buildings all over Europe.

On 18 December 2013, the European Commission adopted a package of proposals to improve air quality in the EU. The package includes a long-awaited revision of the National Emission Ceilings (NEC) Directive and a proposal to address emissions from medium scale combustion plants (MCP).

We welcome both initiatives but regret the poor level of ambition of the overall new strategy, which will leave considerable health and environmental damage after 2030.

The proposed new targets under NEC for 2020 are extremely weak. The emission levels proposed are even less ambitious than those under a business-as-usual scenario, i.e. levels that EU Member States will achieve anyway merely by implementing their obligations under existing EU and national legislation. For 2025, no legally binding targets are proposed, which will result in further delays to cut air pollution. The 2030 targets are not only too late but they are also far from sufficient to achieve the EU’s air quality objectives as set out in the 7<sup>th</sup> Environment Action Programmes (EAP). If the current proposal was to be adopted without improvements, 260,000 premature deaths would still occur in the year 2030. This is more than half of today’s mortality rates. As shown by all cost-benefit analyses prepared for the revision of the Directive, it is not only possible but also socio-economically profitable to aim for the most ambitious emission reduction scenarios.

The Commission missed the opportunity to include NEC emission reduction commitments for mercury. Emissions of mercury travel long distances and pose a significant risk to human health and the environment. A recent EEA report estimated that a ton of mercury emitted into the air would cause on average €910,000 in damage in the EU, mostly due to IQ losses. Together with Belgium, the Netherlands is one of the countries showing the highest damage costs in the whole of Europe. The EU which recently signed the Minamata Convention on Mercury should use the current overhaul of EU air policy to set limits on mercury emissions into the air.

The introduction of EU-wide standards for medium scale combustion plants is welcome but the proposed standards should be strengthened. The emission limit values (ELVs) proposed by the European Commission are extremely weak compared to levels which could be achieved by the use of best available techniques (BAT) and also compared to some Member States’ existing national legislation (e.g. Dutch legislation). Also, the compliance deadlines are way too late if Member States are to meet air quality standards and targets in the shortest time-frame possible. Last but not least, we are also deeply concerned by the number of

derogations proposed by some Member States (e.g. upfront exclusion of MCPs located on islands, exemptions for refineries, crematoria, district heating plants bigger than 5MWth or plants with a limited remaining life time). The substantial weakening of emission limit values which aim to improve human health is unacceptable.

Given the widespread damage from air pollution to health, environment and society at large and high associated economic costs, it is essential that the Environment Council will in 2016 support more significant cuts in air pollution.

**We therefore call upon the Dutch and Slovak Presidencies to:**

- Ensure the adoption of a NEC Directive which leads to the achievement of the 7<sup>th</sup> EAP objective by 2030, i.e. attains "levels of air quality that do not give rise to significant negative impacts on, and risks to, human health and environment";
- Support ambitious binding emission reduction commitments for 2020, 2025 and 2030, including 2020 levels that go significantly beyond those of the revised Gothenburg Protocol and the 2005 Thematic Strategy on Air Pollution (TSAP);
- Support the inclusion of emission reduction commitments for methane to start in 2020;
- Support the inclusion of emission reduction commitments for mercury;
- Strengthen EU-wide requirements to cut emissions from the most polluting sectors as a way to help Member States to achieve ambitious reductions. This includes measures to limit emissions from agriculture, road and non-road, shipping, domestic solid-fuel combustion and solvents;
- Ensure better coherence between the objectives of the different pieces of EU air legislation (e.g. NEC and Ambient Air Quality) with the aim of achieving the EU's 7<sup>th</sup> EAP health and environmental objectives by 2030;
- Improve the enforceability of the NEC Directive, in particular through the inclusion of an express right of access to justice for citizens and NGOs;
- Support the alignment of EU ambient air quality limit values with the latest health recommendations developed by the WHO before 2020.

**In relation to the Medium Scale Combustion Plants Directive<sup>2</sup>:**

- Reject the shopping list of derogations suggested by several Member States;
- Support alignment of the emission limit values with what is achievable by the use of best available techniques (BAT);
- Support the inclusion of emission limits for all relevant pollutants including mercury, formaldehydes and methane;
- Support bringing forward the deadline for compliance - new plants should comply with ELVs as soon as the directive enters into force while existing, smaller installations (for which ELVs are less stringent) should never be granted more than 5 additional years;
- Ensure inclusion of demands for continuous monitoring of emissions whenever technically possible (and more frequent periodic monitoring otherwise);

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<sup>2</sup> In case no agreement is reached in 2015.

- Ensure inclusion of demands for proactive dissemination of environmental information to the public;
- Ensure that stricter ELVs are demanded in zones where concentrations are above the maximum levels recommended by the World Health Organisation.

#### **4. FIGHTING CLIMATE CHANGE AND IMPROVING ENERGY SECURITY**

The 5<sup>th</sup> assessment report of the IPPC provides a clear and up to date view of the current state of scientific knowledge relevant to climate change and shows that use of fossil fuels and other anthropogenic sources of GHG emissions are the cause. At the same time we see the development of the business case that a transition to a low carbon economy is possible and also beneficial to our economy, health and general well-being. In contrast, upholding the current system based on high energy and resource use fuelled from fossil sources would not provide benefits to health, well-being and sustained opportunities for economic development.

To bring Europe on the path for a so-called low-carbon economy by 2050 the EU leaders have endorsed the objective of reducing EU's GHG emissions by 80 to 95 percent compared to 1990. To reach this objective the investments made today must be compatible with trajectories for reductions of up to 95 percent. Investments in new fossil fuel power generation, road and energy infrastructure are not in line with the 2050 targets and constitute a high risk of stranded assets.

For 2020 the EU has decided for the 20/20/20-targets reducing GHG emissions, increasing the share of renewable energies and energy efficiency. While the EU is on track on meeting the two binding targets of reducing GHG emissions and increasing the share of renewable energies, it is not on track when it comes to energy savings. The target for increasing energy efficiency was non-binding and currently an 8 percent gap to the 20 percent saving goal is still open, as the latest Eurostat figures show<sup>3</sup>. This was confirmed by the Commission's own assessment predicting the efficiency target to be missed by 2 percent<sup>4</sup>.

In October 2014 the European Council agreed on the main elements including targets for a climate and energy framework for 2030. The targets of 40 percent GHG emission reductions, 27 percent share of renewable and 27 percent increase in energy efficiency are strikingly insufficient as a fair and effective contribution to keeping global warming within even a 2°C limit above pre-industrial levels, and it should be recognized that there is an emerging scientific consensus that staying below a 1.5°C rise is more likely to be required. It has been shown by the Commission's own impact assessment that these targets are also not the most cost-efficient path.

In preparation of the European Energy Union Communication published early 2015, Vice-President Sefcovic and Commissioner Arias Canete have been calling for the principle of 'efficiency first' pointing out that energy efficiency is an energy source in its own right and

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<sup>3</sup> Eurostat (nrg\_ind\_334a)

<sup>4</sup> European Commission MEMO/14/494

demanded that as part of the market design, energy efficiency and demand side response will be able to compete on equal terms with generation capacity. We welcome that view.

The European Council of March 2015 endorsed the Energy Union and addressed the lack of implementation in the existing energy legislation and the need to revise centrepieces like the Energy Efficiency Directive, Energy Performance of Buildings Directive, Renewable Energy Directive, EU Emissions Trading System and the Ecodesign and Energy Labelling Directives.

To set the right course, it is crucial that the EU addresses the shortcomings of the past and takes all necessary measures to avoid lock-in in high carbon infrastructure and stranded assets. This requires the EU to substantially raise the ambition for the 2030 climate and energy framework and establish three targets that are legally binding at both EU and national level. A consistent climate and energy framework creates substantial benefits in terms of reduced energy costs, greater energy security and job creation (e.g. achieving the 2020 energy savings target would create 2 million new jobs according to the Commission's estimates), as well as boosted competitiveness and technological innovation. We believe that the targets should be set to at least 60% domestic GHG reductions, bearing in mind that new scientific findings point out a need to revise this figure upwards, 40% end-use energy savings and a 45% increase in the share of renewable energy.

Ambitious renewable energy policies need to be combined with effective policies to ensure that renewable energy development happens in a sustainable way and promotes efficient use of limited natural resources. It is therefore crucial that the Commission delivers on its plan to introduce a new "policy for biomass and biofuel sustainability". This policy must be embedded in EU-wide legislation like the new Renewable Energy Directive for 2030, define access to financial support and specify which forms of bioenergy that can be counted towards new renewable energy targets.

To be a credible guarantee of sustainability and to create a stable regulatory framework, the new sustainability policy must ensure that bioenergy used delivers true and significant GHG savings and minimizes harm to biodiversity, water and soil. New policy also needs to guide the use of valuable biomass resources with a view to furthering environmental objectives through applying the cascading use principle and without distorting the waste hierarchy and to limit the overall use of biomass for energy purposes which can be counted towards targets or eligible for subsidies to an amount that can be produced sustainably.

A new global legally binding agreement for 2020 is the objective of negotiations in Paris in December 2015. A credible negotiation strategy for the EU in our view must be based on target proposals that will effectively reduce climate change as close to 1.5° C warming as possible, guarantees for sufficient EU assistance to climate mitigation and adaptation policies for developing countries, and a credible improved domestic climate policy. To ensure that the outcome of Paris will deliver in tackling climate change, the EU will have to continue to invest in the UNFCCC process, ensuring that measures, monitoring and new additional financing help to deliver the necessary action.

We therefore welcome the European Union's call in its communication on the Paris Protocol for the International Maritime Organisation (IMO) (and ICAO) to act to reduce

bunker emissions by 2016, and its emphasis that the Paris agreement must cover 100% of emissions and all sectors. The 1997 Kyoto Protocol called on the IMO to limit and reduce emissions from international shipping, yet very little has been achieved with CO2 emissions from international shipping having grown by over 100% since the Kyoto baseline year 1990. The most recent assessments show ship GHG emissions at around 3% of total global GHG emissions and predicted to rise by up to 250% by 2050, enough to seriously counteract other attempts at keeping global warming below dangerous levels. Studies also show clearly that any improvements in ship efficiency will be more than offset by the growth in demand. The IMO's one measure, the Energy Efficiency Design Index (EEDI), appears to have had little effect on efficiency trends of new build ships so far and emerging evidence suggests the EEDI baselines and targets will need substantial revision.

While progress will hopefully be made at IMO during 2015 and in particular at the Paris climate change talks, European leadership will continue to be needed in 2016 on the establishment of a global Monitoring, Reporting and Verification (MRV) system for shipping that includes efficiency metrics, on a future efficiency requirement for all ships, and of course on the proper charting of a future sustainable decarbonisation pathway for the industry, including clear and meaningful targets for emission reduction. Without a reduction commitment and the adoption of the measures to achieve it, the growth of ship emissions will seriously undermine climate objectives.

Moreover, as the EU seeks to increase its energy security, among other things through building better interconnections and diversifying supplies, it is crucial that strategic infrastructure projects respect the agreed climate objectives. The choice of 'projects of common interest' (PCIs), for which there is an expedited approval process, must therefore also reflect a realistic energy demand in the EU based on future renewables development and energy efficiency improvements.

According to the last assessment performed for the European Commission<sup>5</sup>, the Ecodesign and Energy Labelling Directives are set to deliver more than 40% of the 2020 targets (166 Mtoe primary energy savings by 2020), and could mitigate our GHG emissions with the same order of magnitude as ETS. Beyond those energy and GHG emissions savings, these policies will bring €110 billion saving for European consumers and businesses, extra net revenues of €54 billion for European businesses (manufacturers and retailers) and last but not least create 800,000 new direct jobs. This potential could be multiplied by 1.5 by 2030. The directives are crucial contributors to energy security of Europe, by reducing our dependency on fossil fuel imports and our electricity consumption.

It is expected that the European Commission will release proposals to reform these policies in the second semester of 2015, meaning that the Dutch and Slovak Presidencies would be dealing with the co-decision process and the finalisation of the revision. It is essential to ensure the continuous delivery of these policies, that are reinforcing the single market and avoiding a patchwork of rules at national levels, as well as offering (with the energy label)

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<sup>5</sup> Available at:  
[https://ec.europa.eu/energy/sites/ener/files/documents/2014\\_06\\_ecodesign\\_impact\\_accounting\\_part1.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/2014_06_ecodesign_impact_accounting_part1.pdf)

a reference information scheme for consumers, preventing the proliferation of energy and climate friendly claims that cannot be verified or enforced and could lead to mistrust by consumers.

Additionally, these policies have been assessed in 2012<sup>6</sup>, and in the UK in 2015<sup>7</sup>, as cost effective policies, significantly better than the average cost effectiveness of EU policies in the case of the UK study. In the context of the reform of this policy, and in order to unleash further the potential of Ecodesign and Energy Labelling, options to speed up the decision making process should be explored. When they need 30 to 36 months to approve a measure in the US, the EU needs a minimum of 48 months. Every month gained brings additional financial benefits for European citizens and businesses, accelerated energy savings and would boost further the effectiveness. Part of this acceleration could be achieved by setting up a European product database. Today a large part of the delays are linked to data gathering and data controversy, which would be avoided through such a database. It is to be noted that Europe is the sole major economy without such a product registration and database. The US, China, India, Brazil, Australia and Japan have all such a mechanism to monitor the market.

Finally, evolutions in the market should be better reflected in the setting of measures. Today, the EU takes decisions that will enter into force in the next 3 to 8 years without taking into account the evolution of the price of equipment and innovation in the meantime. As those go down with economies of scale, the system tends to systematically overestimate the cost/price of the improvement options at the time of their entry into force, neglecting the huge potential for more energy and financial savings. In the US, the medium term market trends are integrated in the definition of measures, and this is even required by law. The reform could also help to pay better attention to the absolute energy consumption of equipment, beyond simple efficiency, so as to mitigate the trends towards larger size appliances. This will not at all prohibit the placing on the market of those bigger products, but would ensure that the size increase does not offset the expected energy savings. Finally, the reform should revise the energy label to make it again an instrument of market transformation, creating incentives for frontrunners and innovative businesses, and driving consumers towards the most sustainable goods. The saturation of products in highest classes, the empty bottom classes confusing consumers and the poorest willingness to pay linked to the plusses added after the A class (A+, A++, A+++)<sup>8</sup> particularly need to be addressed. Such a revised labelling scheme could become the backbone of a top runner approach in which the highest classes of today are to become the bottom line of tomorrow's legal requirements.

In addition, the largely untapped material efficiency potential of these policies should be seized through concrete requirements targeting durability, reparability and recyclability of products and materials (see section below on resource efficiency).

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<sup>6</sup> Available at: CSES [http://ec.europa.eu/enterprise/dg/files/evaluation/cses\\_ecodesign\\_finalreport\\_en.pdf](http://ec.europa.eu/enterprise/dg/files/evaluation/cses_ecodesign_finalreport_en.pdf)

<sup>7</sup> Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/406225/defra-regulation-assessment-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/406225/defra-regulation-assessment-2015.pdf)

**We therefore call upon the Dutch and Slovak Presidencies to fight climate change by:**

- Adopting ambitious EU climate and energy policies to set us on a path to a fully green economy that reduce energy use, improve energy security, create long-term jobs and ensure a better quality of life for all;
- Opening up the discussion for an EU climate and energy policy framework for 2030 that is in line with a 1.5°C threshold, building on binding targets on EU and national level for GHG emission reductions (at least 60% domestic), the share of renewable energy in the energy mix (45%) and energy savings (40% end-use);
- Supporting the revision of the EU ETS to make the ETS work and fully effective with 100% auctioning of permits, cancelling of surplus allowances, an effective Market Stability Reserve and a significant share of revenue channelled to investments in renewables and energy efficiency;
- Ensuring agreement on the EU's contribution towards the Green Climate Fund, which should amount to at least €35 billion per year by 2020 in additional money to developing countries for mitigation and adaptation support;
- Assessing new areas of innovative and reliable financing for mitigation and adaptation needs;
- Ensuring that EU energy infrastructure projects, including PCIs, respect the EU's climate goals and environmental requirements and objectives;
- Ensuring that the Commission puts forward a new bioenergy sustainability policy that is embedded in legislation and addresses GHG emissions of biomass burning, other environmental impacts and limits the overall use of biomass resources for energy as counting towards a new renewables target and related support schemes to an amount based on what can be sustainably produced;
- Ensuring European leadership in 2016 on the establishment of a global MRV system for shipping that includes efficiency metrics, on a future efficiency requirement for all ships, and on the proper charting of a future sustainable decarbonisation pathway for the industry, including clear and meaningful targets for emission reduction.

**We furthermore call upon the Dutch and Slovak Presidencies to reduce Europe's energy consumption in absolute terms through:**

- Ensuring the revision of the Energy Efficiency Directive makes the 20% energy savings target for 2020 legally binding, promotes ambitious implementation and sets at least a binding 40% target for 2030;
- Ensuring that the revision of the Energy Performance of Buildings Directive delivers maximum energy savings for EU business and citizens and establishes mandatory energy efficiency levels of Net Zero Energy Buildings for retrofitting and new buildings;
- Agreeing a comprehensive set of policies and measures to support the 2030 target;
- Ensuring that minimum energy efficiency requirements set out in the Best Available Techniques reference documents are fully implemented by industry;
- Ensuring an ambitious and coordinated reform of the Ecodesign and the Energy Labelling policies that should work even more hand in hand than today and include provisions that will:

- Accelerate the related decision making process, notably through the establishment of a product database, to grant more savings and release more measures in an effective way;
- Require a better integration of market prices' evolution, as required in the US, in the definition of measures to reflect the reality of the situation when measures enter into force and create opportunities for more improvements linked to each measure;
- Take into account the absolute energy consumption of appliances when setting measures, in order to mitigate the size increase of our products;
- Define a renewed labelling scheme that will create incentives for innovation and front running businesses and enhance the willingness to pay for more efficient, more sustainable goods by consumers;
- Adopt a top runner approach to define legal energy performances requirements, with the benchmarks of today becoming the baseline of tomorrow;
- Ensure proper market surveillance and enforcement of the measures;
- Unleash the material efficiency of these policies to leverage circular economy economic opportunities;
- Ensure that the energy savings potential linked to Ecodesign energy-related products are fully grasped by allocating the appropriate resources in the Commission, by requiring a better monitoring of the market and by improving the decision-making process with respect to the revision of already existing regulations.

## **5. CREATING A CIRCULAR ECONOMY THROUGH BETTER MANAGEMENT OF RESOURCES AND PRODUCT DESIGN**

One of the goals of the 7<sup>th</sup> Environmental Action Programme, agreed by the Council in 2013, is to become a resource-efficient, green and competitive low-carbon economy. To this end, “... *the Union policy framework should ensure that priority products placed on the Union market are ‘eco-designed’ with a view to optimising resource and material efficiency. This should include addressing, inter alia, product durability, reparability, re-usability, recyclability, recycled content and product lifespan. Products should be sustainably sourced and designed for re-use and recycling.*” (paragraph 36). Improving waste policy is also identified as a key lever: “*There is also considerable potential for improving waste prevention and management in the Union to make better use of resources, open up new markets, create new jobs and reduce dependence on imports of raw materials, while having lower impacts on the environment*” (para. 39). In July 2014, the European Commission released a first proposal on waste and circular economy, which has been withdrawn with the argument to design a “more ambitious” and more comprehensive circular economy package to be tabled by the Commission in 2015. The Dutch and Slovak Presidencies will be leading the development and possibly the finalisation of the co-decision process on behalf of the Council.

It is important to underline the tremendous potential linked to this policy: €72 billion savings, 400 000 jobs created and 215 MTCO<sub>2</sub>eq reduction<sup>8</sup>. Reduced waste generation and stricter management will also lead to less waste entering the oceans as marine litter. In order

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<sup>8</sup> BIO Deloitte 2012 - <http://ec.europa.eu/environment/waste/studies/pdf/study%2012%20FINAL%20REPORT.pdf>

to help a proper implementation of waste policy and to set a longer term vision until 2030, the July 2014 proposal by the Commission defined notably a 70% recycling rate of municipal solid waste and between 65% and 80% recycling for packaging waste based on a harmonised calculation method, crucially missing today. The proposal also set inter alia some provisions on prevention of food waste, separate collection of biowaste, better monitoring of hazardous waste, an early warning system to prevent infringement, prohibition on landfilling of recyclable and compostable waste, and minimum common rules for extended producer responsibility scheme. The accompanying communication<sup>9</sup> also set a non-binding 30% reduction target for marine litter. Those new targets and provisions could add up to the benefits identified for 2020 horizon.

If the Commission is serious about its commitment to propose a more ambitious circular economy package, that means at least preserving this original ambition and developing it further, particularly in the direction of product policy. The products that will be placed on the market in the coming years are the waste (resources) to be handled by 2025 and 2030. Product policy represents a significant lever to achieve our waste prevention and recycling ambition in the coming 15 years. The Dutch and Slovak Presidencies would thus be in a key position to preserve the original ambition of the waste policy revision, complement and refine it, and grasp the still largely untapped potential of product policy for a resource efficient circular economy. The marine litter target is non-binding and too low at a 30% reduction by 2020, which will not provide the necessary impetus for action. We call on the 2016 Presidencies to support a legally binding 50% reduction target to drive implementation of the circular economy, aid in the achievement of the goals of the Marine Strategy Framework Directive, and ensure that the European Union honours its international commitments on marine litter.

The Port Reception Facilities Directive 2000/59/EC is currently under evaluation, with a revised proposal likely to be released during the Dutch Presidency. This Directive has the capacity to tackle marine litter inputs from shipping by providing suitable waste delivery facilities at ports, removing any incentive for ships to dump waste overboard. The current directive is not prescriptive enough, resulting in a confusion of waste delivery fee systems that incentivise dumping<sup>10</sup>. The revision can ensure that there is EU-wide harmonisation in waste fee systems, thus simplifying waste delivery for all port users.

In order to make the best of existing policies, the Dutch and Slovak Presidencies should seize the opportunity of the reform of the Ecodesign and Energy Labelling Directives to ensure that those policies will deliver on resource conservation. Information on lifetime of products and extended legal warranty periods, requirements for easing reparability and disassembly of products, for limiting toxic contents, and increased recycling should be systematically explored and adopted where relevant.

The Energy Label could integrate digital feature such as QR code, enabling the circulation of additional resource-related information without compromising its clear focus on energy. To address products beyond energy-related products, a number of options should be explored including extending the scope of the Ecodesign Directive, setting a new regulatory

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<sup>9</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014DC0398>

<sup>10</sup> [http://www.seas-at-risk.org/1images/FINAL%20IEEP%202013%20PRF%20Directive\\_1.pdf](http://www.seas-at-risk.org/1images/FINAL%20IEEP%202013%20PRF%20Directive_1.pdf)

framework for non energy-related products, or including provisions on product design for reparability, reusability and recyclability in the Waste Framework Directive. The other product policy instruments, notably green public procurement and Ecolabel, could also be promoted by setting more binding GPP targets and through market based incentives for products rewarded with Ecolabel. In relation to a European product database, material properties and related information could also be systematically documented (“product passport”). 2016 should also be time to draw conclusions on the product footprinting experience (“PEF”) and define policy options to mitigate the proliferation of non-comparable non enforceable green claims and adapt the findings of the pilot phase to make them operational and compatible with existing instruments. It could also set some certificates or market incentives for uptake of recycled material in new products.

In addition to making product policy deliver for a circular economy, the initial waste policy ambition could be boosted in the direction of the highest steps of the hierarchy: prevention and specific reuse targets and measures could be incorporated, notably for textiles and furniture, and through deposit-refund schemes for packaging, the target set for municipal waste could be extended to commercial/industrial waste, construction and demolition waste recycling could be distinguished from backfilling, direct landfill or incineration of untreated waste could be prohibited to maximise the material recovery opportunities.

It should also be considered setting a proper analytical and supportive framework for a circular economy. A methodology to measure resource productivity, setting a baseline and some long term headline targets would be crucial to monitor our progress. More detailed indicators such as the rate of recycled material used in the European economy could also be defined according to a harmonised methodology, ensuring a comparable monitoring for all Member States.

In parallel to this reform work, efforts should be pursued to ensure a proper implementation of product and waste policy as a failure to do so would risk losing the opportunity for job creation and environmental benefits. The proper market surveillance required by an effective product policy as well as the proper inspections to guarantee compliant waste management depend on resource dedication, cooperation and intelligence sharing between Member States and specification of legal formulations for inspection plans following the example of the recent development of waste shipment regulation. Implementation should be considered as a necessary independent task, and not erroneously being put in a trade-off with ambition, as if less ambition would mean de facto a better implementation. Helping less advanced Member States, supporting prevention and recycling investments, and preventing an even larger gap between more advanced and less advanced Member States should be given priority, but should not be used to undermine the ambition of the circular economy and waste policy package.

**We therefore call on the Dutch and Slovak Presidencies to:**

- Ensure the definition of an ambitious circular economy package that will not only preserve the ambition of the July 2014 proposal, but also complement it with more waste prevention and preparation-for-reuse objectives, and unleash the potential of product policy for leveraging a circular economy;

- Require a systematic exploration of resource-related potential in Ecodesign policy to extend lifetime and ease repair and disassembly of products, as well as limit the hazardousness of materials and promote cost effective recyclability;
- Explore the potential linked to the digitalisation of the energy label to convey resource-related information beyond energy efficiency and consumption;
- Address the potential for resource conservation beyond energy-related products covered today by Ecodesign by extending the Ecodesign scope, by setting a new regulatory framework or by including design provisions in the Waste Framework Directive;
- Set more binding Green Public Procurement targets and create economic incentives for uptake of Ecolabelled products, build on the PEF experience to define clear policy options limiting the proliferation of green claims and ensure a sound integration in existing instruments;
- Support setting a binding marine litter reduction target of 50%;
- Ensure that the revision of Directive 2000/59/EC on Port Reception Facilities includes an EU-wide harmonised fee system to disincentivise waste dumping by ships;
- Complement waste policy by addressing commercial/industrial waste beyond municipal waste, by defining more prevention measures and specific preparation-for-reuse targets;
- Clearly prohibit the direct landfill or incineration of untreated waste;
- Set a European-wide analytical framework and headline objectives to monitor progress towards a resource-efficient circular economy;
- Define provisions to improve the implementation of product and waste policy and narrow the gap between less advanced and more advanced countries, without pretending it will strictly depend on the level of ambition;
- Set the necessary provisions and certainties in the revised legislation to guarantee a correct monitoring of the achievements and lever a proper enforcement;
- Encourage the use of European-wide indicators such as total material consumption, water and CO2 footprinting, and land use.

## 6. IMPROVING ENVIRONMENTAL GOVERNANCE

### **Better implementation and enforcement of EU law**

The EU has an impressive body of environmental law and yet it is making only slow progress in solving its environmental problems, partly because of increasing pressures resulting from the economic model but also due to poor implementation. The right tools, the political will to apply them and transparency in their application are at the heart of improving implementation of environmental law.

The Commission took a step towards addressing these issues through its Communication on better implementation published in March 2012 (full title: ‘Improving the delivery of benefits from EU environment measures: building confidence through better knowledge and responsiveness’). Several elements from the 2012 Communication were then taken up in the

7EAP, adopted in November 2013, which noted the high number of infringements, complaints and petitions in the area of the environment and committed to giving ‘top priority’ to ‘improving the implementation of the Union environment *acquis* at Member State level’. Specifically, the 7EAP states that efforts in the period up to 2020 will focus on delivering improvements in four key areas, which may be summarised as follows:<sup>11</sup>

- Improving the way that knowledge about implementation is collected and disseminated;
- Extending requirements relating to inspections and surveillance to the wider body of Union environment law, and further developing inspection support capacity at Union level;
- Improving where necessary the way in which complaints about implementation of Union environment law are handled and remedied at national level;
- Ensuring effective access to justice in environmental matters and effective legal protection for EU citizens.

As the 7EAP is a binding document that has been agreed between the three institutions, these are important commitments and it is essential that they are honoured by all the institutions, featuring where relevant in documents such as the Commission annual work programmes. The second and fourth elements clearly lend support to the tabling of legislative proposals on environmental inspections and access to justice, discussed below. The Presidency in particular should play a key role in ensuring that the 7EAP is respected and encouraging the Commission to come forward with appropriate proposals.

**We therefore call on the Dutch and Slovak Presidencies to:**

- Remind the Council, Commission and Parliament of their joint commitment under the 7EAP to give top priority to improving implementation of the EU environment *acquis* at Member State level and call on the Commission to come forward with specific proposals to deliver on that commitment;
- Encourage and support Commission initiatives to deal with its enforcement obligations in a more effective, transparent and timely manner, and to increase transparency and public involvement in relation to the implementation performance of Member States, including through granting public access to correlation tables and implementation reports, systematic reporting and monitoring, and sharing of best practice;
- Support the Commission’s proposals to improve national complaint handling;
- Emphasize the need for appropriate bodies and structures at EU level to improve transposition and application of EU environmental law, such as an EU agency coordinating environmental inspections.

**Environmental Inspections**

Environmental inspections are an essential tool to ensure that European environmental law is applied more consistently. In the past, Member States opposed the European Parliament’s

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<sup>11</sup> Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’ (paras. 58-62).

efforts to have an EU directive on environmental inspections with the result that the only progress that was made horizontally was the adoption of the non-binding 2001 recommendation on minimum criteria for environmental inspections. However, this did not achieve the desired results, with divergence in the quality of national inspection and enforcement regimes persisting at the Member State level. Binding inspection requirements have been included in some sectoral laws. The EEB believes however that an EU law establishing minimum standards for environmental inspections horizontally, without in any way hampering or weakening existing environmental inspection provisions in sectoral law, would be more efficient and lead to a more harmonised application of EU environmental law and requirements. As mentioned above, the 7EAP requires such action. Such a law should be fully in line with the Aarhus Convention, as participation of a well informed public will improve an efficient application of a new inspections law. This would help to uphold the rule of law, would be positive for the environment and would also contribute to more harmonised business conditions. The Barroso II Commission is believed to have been at an advanced stage in preparing a legislative proposal but this did not come out before the end of its mandate.

**We therefore call on the Dutch and Slovak Presidencies to:**

- If not published in 2015, call on the Commission to table a draft horizontal EU Directive establishing minimum standards for environmental inspections, reminding that it is an obligation under the 7EAP to put forward such a proposal;
- Once such a proposal is published, swiftly start work in Council working groups;
- Draw on the 2001 European Parliament and Council Recommendation on Minimum Criteria for Environmental Inspections in the Member States;
- Ensure the inclusion of principles of minimum inspection duties and regimes, Member States' reporting requirements to the Commission and a high level of transparency granting the public timely and easy access to the reports;
- Introduce measures for better prevention and control of activities with a potential to harm the environment and human health;
- Call for strengthened capacities within the Commission to address implementation problems in the Member States;
- Ensure that the horizontal law will never weaken stronger provisions that may exist in sectoral laws.

**Environmental Liability Directive**

Back in 2004, we supported the Environmental Liability Directive (ELD) as a useful new tool, based on the polluter-pays principle, for the prevention and remediation of environmental damage to nature, water and soil. However, as a Framework Directive, it leaves a wide margin of discretion to Member States on important issues such as the scope, defences, exemptions and financial security. The application of the ELD has remained very limited and the Directive has not yet delivered what it was meant to. According to the ELD, “the Commission shall submit a report to the European Parliament and to the Council before 30 April 2014” including proposals for its revision in 2015. This report having been delayed, a proposal for revision will only be tabled during the second term of 2015. Through

this revision, we hope to see considerable improvements leading to better and more EU-wide harmonized application of the ELD.

**We therefore call on the Dutch and Slovak Presidencies to:**

- If the Commission proposal has not already been issued in 2015, call on the Commission to come forward with the draft revised law without further delay;
- Once the Commission draft has been tabled, start work in the Council working group with a view to achieving a progressive outcome;
- Reject any weakening of the current directive during the revision process.

**Aarhus and access to justice**

There are serious problems with the way in which the EU is implementing the Aarhus Convention, both at Member State level and at the level of the EU institutions, especially in relation to access to justice.

At the EU level, the rights of NGOs to have access to the Court of Justice of the European Union (CJEU) suffered a severe setback following a judgment from the Court in January 2015 which confirmed a pattern of exclusion of environmental NGOs from access to the Court in virtually all cases. The principal obstacle to such access (though by no means the only one) is the limitation in the Aarhus Regulation<sup>12</sup> of the types of acts that may be challenged to ‘measures of individual scope’. The ruling will now be examined by the Aarhus Convention Compliance Committee which will determine whether the EU’s post-Lisbon regime of access (and lack thereof) is compatible with the Convention. We are firmly of the view that it is not. However, irrespective of whether the Committee and eventually the Meeting of the Parties to the Convention find there to be non-compliance, it is clear that the effective denial of access to justice at the EU level is politically unacceptable and reveals a significant democratic deficit at the heart of the EU decision-making processes. Strengthening the democratic accountability of the EU institutions, including its judicial component, is a crucial element in maintaining public confidence in the EU. Furthermore, the behaviour of the EU on this issue sends a very poor signal to other Aarhus Parties e.g. from Central Asia where the EU should be setting a good example. We therefore believe that the EU should recognize this being primarily a political rather than a legal issue and should move to amend its legislation to rectify the situation.

At the Member State level, there is an urgent need to launch negotiations on a new directive on access to justice in environmental matters. The necessity for such a directive has been repeatedly stressed not only by civil society organisations in the EU Member States but also by judges and other legal experts, not least as a means to improve implementation and enforcement of EU law. It is further underlined by a number of studies showing considerable variations in the quality of access to justice between Member States, by the findings of the Aarhus Convention Compliance Committee which have revealed the failure of certain EU Member States to properly apply the access to justice pillar of the Convention, and by rulings of the European Court of Justice, e.g. in a case concerning Slovakia (C-240/09) in March 2011, which unequivocally shows that there is a legal vacuum with respect

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<sup>12</sup> Regulation 1367/2006 on the application of the provisions of the Aarhus Convention to the EU institutions.

to access to justice. These have added legal arguments to the political ones in favour of a horizontal approach to improving access to justice in environmental matters throughout the EU. In the absence of legislation at EU level, there is not only a persisting lack of legal certainty and thus predictability for investors, but the CJEU will also need to – repeatedly – interpret the Aarhus Convention in lengthy preliminary ruling procedures.

The Seventh Environmental Action Programme refers to the need for access to justice in environmental matters in line with the Aarhus Convention and developments brought about by the entry into force of the Lisbon Treaty and recent case law of the European Court of Justice. It commits to ensuring that national provisions on access to justice reflect the case law of the Court of Justice of the European Union, implying a legally binding approach. Unfortunately, under the REFIT process the Commission withdrew the 2003 draft directive before having tabled a new one, even though the preparatory work on a new one was well advanced by the end of the Barroso II mandate. The new Commission has yet to clarify its intentions on the matter.

**We therefore call on the Slovak and Dutch Presidencies to:**

- Call on the Commission to prepare a proposal for revision of Regulation 1367/2006 to provide effective access to the CJEU for environmental NGOs, including by removing the limitation of the administrative acts that may be challenged to ‘measures of individual scope under environmental law’, and at the same time address the potential incompatibility of the information provisions of the Regulation with the Aarhus Convention;
- Call on the Commission to come forward with a proposal for a directive on access to justice in environmental matters as swiftly as possible, in case it has not done so in 2015;
- Convene Council working groups immediately after the draft has been presented, with a view to achieving the adoption as soon as possible of a directive that establishes a minimum framework for access to justice which fully respects the Aarhus Convention and the related jurisprudence.

**REFIT including Make it Work**

Following the launch of the Commission’s Regulatory Fitness and Performance Programme (REFIT) in the second half of 2013, the Commission produces an annual Communication and scoreboard in which it reports on actions taken. In its first 2014 Communication, the Commission announced the withdrawal of a number of environmental policy proposals (Soil and Access to Justice), assessments of others (Ecolabel, EMAS, CO2 and cars, energy label and Natura 2000) and work done on yet again others (REACH), as well as a number of horizontal initiatives. Although some of the envisaged changes, such as improved impact assessment procedures, may improve EU governance in for example the agriculture policy areas, others such as Cumulative Costs Assessments (CCA) are more likely to serve industry to argue against further regulatory action that would require them to internalise externalities.

Particularly worrying is that, despite the fact that environmental regulations only contribute less than 1% to the total amount of administrative burden, they continue to feature high in the Commission’s REFIT programme. If the focus on environment legislation is not based

on facts and rigorous analysis, the conclusion can only be that it is ideologically motivated. Equally worrying is the focus on creating exemptions from legal obligations and environmental standards, or establishing lighter regimes, for SMEs and micro enterprises. Given that SMEs make up approximately 97% of the EU economy, this would render EU policies ineffective.

Worrying as these initiatives may have been during the Barroso Commission, things have become truly alarming following the start of the Juncker Commission in November 2014 and in particular the appointment of first Vice President Frans Timmermans as responsible for 'better regulation'. Although his job title was expanded to cover sustainable development in response to criticism from the European Parliament and civil society including the EEB and other NGOs, his first actions in office have suggested that he considers it his primary task to reduce EU regulations no matter what they are meant to achieve. His first action was to try and prevent a deal being reached on the plastic bags directive which only failed after EP and Council negotiators decided to ignore the Commission in the final negotiation round and reached an agreement. Immediately after that he announced the withdrawal of the only very recently published revised waste package when publishing the Commission's Work Programme for 2015, alongside a whole raft of other draft laws.

In April 2015 Vice President Timmermans will have published further proposals on 'Better Regulation' which are expected to include a reform of the Commission's Impact Assessment Board to include external experts, the establishment of a new stakeholder platform on better regulation to replace the Stoiber Group, proposals for a new inter-institutional agreement on better law making (IIABL) and a range of further withdrawals of legislation and other measures. The substance and detail around these proposals will determine whether this new Commission is committed to 'Better Regulation' in the sense of more effective regulation or simply as less regulation as many commentators in the UK in particular have been arguing it should be. In particular the revised proposal for an IIABL will be essential for a number of reasons. On substance it is essential that the anti-regulatory bias in the existing agreement with the focus on self- and co-regulation, despite all evidence suggesting that to be less effective, is addressed. It should however also ensure that the European Parliament's Environment Committee and the Environment Council have a central role to play in the negotiations among the three institutions on both this new agreement and in deciding on political priorities for a potential multi-annual common work programme.

The consequences of this better regulation agenda turning into an anti-regulatory crusade where environmental policy is one of the first victims, are potentially disastrous. Not only will it stop the EU from being a global leader on efforts to greening the economy, safeguarding biodiversity and improving environmental health but, just as important, it is very likely to lead to bad economic policy choices that will fail to address the deeper problems underlying the world's economic difficulties.

For this reason we are equally concerned about the Make it Work (MiW) initiative currently developed by the Dutch Government. The stated objective of MiW is to develop an EU-wide coalition of countries to develop guiding principles for the review and revision of environmental policies without changing the objectives. One big problem with this objective is that these 'guiding principle' already exist and, following long negotiations are written into the EU Treaty. Even more worrying is that some of these principles written into the EU

treaty such as the precautionary or the polluter pays have so far been missing from this initiative. Perhaps the biggest problem with this initiative however is the fact that the problems it claims to address such as incoherent reporting requirements between environmental directives pale into insignificance when put next to the gaping inconsistencies between EU environmental and for example EU agriculture or energy policies. Finally, the MiW initiative is modelled on a Dutch national initiative that is based on its spatial planning laws which means that for it to work at EU level unanimous agreement would first need to be found in support of it.

**We therefore call on the Dutch and Slovak Presidencies to:**

- Ensure that Environment Ministers continue to play a key role in all debates related to 'Better Regulation', Commission Work Programmes and inter-institutional debates on better law making;
- Call for a rethink of the EU's 'Better Regulation' agenda, in particular its REFIT Programme away from its anti-regulatory fact free bias towards one that improves governance for sustainable development.

## **7. PROTECTING BIODIVERSITY AND ECOSYSTEMS**

Biodiversity and ecosystems are in decline and with it the services our human wellbeing depends on. Globally and at the EU level, measures have been taken to reverse the trends, both through legislative means and political commitments. In 2011, an EU 2020 Biodiversity Strategy was put in place and endorsed at the highest political level by heads of government to enable the EU and its Member States to reach its headline target of halting the loss of biodiversity and degradation of ecosystem services by 2020 as well as contribute to global Aichi targets adopted under the CBD. The Strategy also included commitments to restore degraded ecosystems where physically possible.

The main pressures coming from unsustainable agricultural practices, overfishing, modification of ecosystems for energy production, and chemical and air pollution, however, persist and are not effectively tackled. EEA's SOER 2015 indicated that only slightly more than half of Europe's surface water bodies are expected to be in good/high ecological status by 2015, which constitutes only a modest improvement in light of 43% already being reported as showing good ecological status in 2009.<sup>13</sup> 2015 will give an indication on how all habitats and species protected under the Birds and Habitats Directive are doing and how far we are from reaching the set objectives. The first outcomes of the work on mapping and assessment of ecosystems and their services (MAES) should by then also become available.

Across all of Europe's regional seas, marine biodiversity is in poor condition: only 7% of marine species assessments indicate 'favourable conservation status'. The Marine Strategy Framework Directive's target of achieving good environmental status by 2020 is at risk due to overfishing, sea floor damage, pollution by nutrient enrichment and contaminants, marine litter, underwater noise, introduction of invasive alien species, and the acidification of Europe's seas.

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<sup>13</sup> [www.eea.europa.eu/soer-2015/europe/freshwater](http://www.eea.europa.eu/soer-2015/europe/freshwater)

The mid-term review of the EU's biodiversity strategy in 2015 offers excellent opportunities for Member States to look at the progress they have achieved in protecting and restoring ecosystems and the important services they provide, such as flood protection, clean water and air, and disease control, and commit to new measures that will improve the implementation of current EU biodiversity and related legislation and ensure the integration of nature considerations in policies with the highest negative impact. This will become even more relevant with the risk of dangerous levels of warming growing each year and the resulting rise in intensity and frequency of extreme weather events such as heat waves, floods and droughts. Only healthy ecosystems will allow us to effectively mitigate and adapt to the changing climate. Committed action by the Presidencies and the Commission will be required to put the EU on track to reach its biodiversity targets and objectives.

Presidencies should make ecosystem protection and restoration therefore a top priority in 2016 as this would in the mid to long term create the basis for a prosperous and sustainable economy. Such discussions on biodiversity should foremost focus on ways to avoid further degradation and loss of biodiversity and restore degraded ecosystems, building on improved integration of biodiversity in policies primarily responsible for biodiversity loss and improved implementation and stringent enforcement of existing EU legislation. New opportunities will be offered to Member States through the newly adopted Regulation on Invasive Alien Species (IAS), IAS being one of the main drivers of biodiversity loss. However, if the Regulation, which entered into force at the beginning of 2015, is to effectively deliver on the EU's biodiversity headline target, ambitious implementation at both EU and Member State level will be crucial. Equally important will be the ongoing revision of the National Emission Ceilings Directive which provides an opportunity to significantly reduce ammonia emissions from agriculture into the air. Against a background of a failed greening of the CAP and the ending of milk quota widely expected to lead to a further intensification of livestock farming, seizing this opportunity will be essential to achieving our biodiversity objectives.

The ongoing fitness check of the Birds and Habitats Directives is first and foremost an opportunity to bring a step change in the implementation of those Directives and identify and complete eventual gaps in EU biodiversity policy. The political conclusions that will be drawn from this exercise will have far-reaching implications for the future of EU conservation policy. Either Europe will continue to build on the success of these Directives and strengthen this through a combination of improved implementation or further complementary measures targeting farming in particular, or Europe will undermine the basic legal framework, causing further delays in conservation action and causing harmful legal uncertainty damaging investments and creating needless administrative burdens. If Europe is to have any chance of resolving its biodiversity crisis, it is essential that it will choose the first option in support of nature. For this reason we are very concerned by initiatives such as the 'Nature Outlook' by the Dutch Environment Agency PBL that seems designed to re-open a political debate about already agreed visions, objectives and legal obligations under EU Biodiversity Policy.

EEA's SOER 2015 report which shows negative trends for soil functions in the next few decades<sup>14</sup>, together with the Commission's Communication on 'land as a resource' scheduled to be adopted in 2015, will create a solid basis for Presidencies to make progress in the area of EU-wide soil protection.

**We therefore call on the Dutch and Slovak Presidencies to:**

- Ensure that the ongoing fitness check of the Bird and Habitats Directives leads to a step change in the quality of implementation and that eventual gaps are filled without undermining existing legislation or causing delays in its implementation;
- Following on the mid-term Biodiversity assessment, work with the Commission to put in place ambitious concrete measures aiming to put the EU on track towards meeting its biodiversity objectives on land and in the sea;
- Put the onus on the need to avoid harm to biodiversity by building on the improved implementation and stringent enforcement of existing EU legislation on biodiversity, such as the Birds and Habitats Directives, the Water Framework Directive and the Marine Strategy Framework Directive;
- More specifically, call for completing the Natura 2000 designation, in particular marine, and ensure legal protection and specific conservation objectives and management plans and use the mid-term review of the Multi-annual Financial Framework (MFF) to substantially increase the LIFE+ budget;
- Seize the opportunity to tackle drivers of biodiversity loss by taking the necessary measures to fully implement the regulation on Invasive Alien Species on the basis of the priority list drawn up at European level, as well as to agree to stringent national emission ceilings for ammonia under the proposed NEC;
- Explore and promote ways of delivering actual integration of biodiversity in other policies, such as agriculture and energy;
- Achieve progress in promoting green infrastructure as a way to redirect investments from expensive 'grey infrastructure' such as dams, levies and canals to 'green infrastructure' such as floodplains and interconnected natural areas;
- Deliver a new impetus in the discussion on soil protection in Europe and ensure that commitments are made to adopt EU action of a legal nature on preventing additional soil sealing or mitigating its effects.

## **8. NEW STEPS TO CHEMICAL SAFETY, INCLUDING NANOTECHNOLOGY AND MERCURY**

At the Johannesburg World Summit on Sustainable Development on 4 September 2002, the EU signed up to a commitment to produce and use chemicals in ways that would minimise adverse effects on human health and the environment by 2020. The Commission's White Paper "On the Strategy for a Future Chemicals Policy" of 13 February 2001 had already mentioned that when considering only the known chemicals, about 1,400 substances would qualify as substances of very high concern (SVHCs). The REACH Regulation of 18 December 2006 set as its core objective to replace SVHCs with safer alternatives (through

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<sup>14</sup> [www.eea.europa.eu/soer-2015/europe/soil](http://www.eea.europa.eu/soer-2015/europe/soil)

the authorisation regime) or by restricting their manufacturing, placing on the market and use in order to ensure a high level of protection of human health and the environment. In particular, restrictions should be intensified for substances of very high concern in consumer articles. Seven years after entry into force of REACH, the number of substances identified for substitution is only 161 with an average annual increase of 20 substances. The Commission had made a commitment to speed up the inclusion of SVHC substances in the candidate list a reality and making the substitution goal a reality by having “all relevant currently known SVHC” included in the candidate list by 2020. Moreover, the European Union’s 7<sup>th</sup> Environment Action Programme foresees a non toxic environment by 2018.

However, so far only 31 substances have made it to the official “authorisation list” (Annex XIV), inclusion on which means that substitution requirements apply. Proceeding under business as usual scenarios and stopping short at adding to the candidate list (which is the first but not last step for substitution) means that the EU is going to fail to fulfil its commitment spectacularly. Furthermore, there are well-founded concerns about a specific category of SVHCs with disrupting effects on hormones, namely endocrine disrupting chemicals (EDCs). EDCs are suspected of playing a role in disrupting human brain development, the deterioration of reproductive health, the increased incidence of male and female hormone-related cancers and the increase in cardiovascular disease, obesity and diabetes, among other adverse effects.

2015 and 2016 are critical years for the authorisation process, as the Commission will adopt the first decisions on the applications for authorisation of use in the EU of substances of very high concern. Furthermore, REACH will be reviewed regarding information requirements for low production volume substances (around 20,000 substances below 10tpa across the EU) and polymers (today, around 70,000 polymers are placed on the EU market at volumes above one tonne per year without any information requirement under REACH).

The quality of information submitted by industry on the chemicals they manufacture, use or import under REACH registration process is still a major challenge. 69% of the registration dossiers are not in compliance with the legislation.

Nanotechnology is the science and business of manipulating matter at the molecular scale. Materials produced with the aid of nanotechnologies are used in many areas of everyday life (cosmetics, clothing fabrics, sports equipment, paints, food and food packaging and additives, etc). 2,500 types of consumer products are estimated to contain engineered nanomaterials (NM). Due to their small size, in particular, nanoparticles present new concerns for human health and the environment, such as penetrating the brain and tissues, producing asbestos-like effects or modifying DNA capacity. Also, the marine environment is likely to be a sink for nanomaterials as it is for most pollutants, which will potentially pose a risk to marine biological resources (wild and farmed) and ecosystems. Recent research has led to a consensus amongst nanotoxicologists and ecotoxicologists that the risks of severe impacts on health and the environment are real, although there is a continuing lack of knowledge as to the levels of these risks and how to manage them.

In March 2009, the European Parliament adopted a resolution on regulatory aspects of NM and called upon the European Commission to review all relevant regulations by April 2011 to ensure the safety of all applications of NM with potential health, environmental or safety

impacts over their life cycle. Despite strong pressure from civil society, the European Parliament and some Member States, the Commission's second regulatory review on NM, published in October 2012, represented a step backwards for regulating this type of materials. Indeed, the Commission now denies the specificities of NM, stating that "nanomaterials are the same as common chemical substances", in direct contradiction to the Commission's own staff document and dismissing general hazard patterns of NM that differ from other chemical substances; for NM, the surface area, size, shape, solubility and persistence are predominant factors, much more than chemical composition *per se*. The Commission's review also ignores the fact that REACH effectively does not apply to NM due to the high production volumes thresholds which are inappropriate for NM and the lack of definition of NM in the legal text among other things, and states that only amendments of the REACH annexes and guidance are to be done by December 2013 and discussed at the Council by 2014. As of March 2015, this commitment is still to be fulfilled. Finally, the Commission has started in 2013 the Impact Assessment procedure to assess the need of an EU-wide nano register that was to be published by the end of 2014. Today, the Commission still delays this commitment.

Mercury is a pollutant of particular concern, but also one where the new Minamata Convention on Mercury provides specific opportunities to make a difference in 2016. Mercury and its compounds are highly toxic, can damage the central nervous system and are particularly harmful to foetal development. Mercury bioaccumulates up through the food chain, especially in certain predatory fish, and presents a human exposure risk. This neurotoxin is widely diffused through the atmosphere and has contaminated global food supplies at levels which pose a major risk to human health, wildlife and the environment.

The Minamata Convention was adopted in October 2013 in Kumamoto/Minamata, Japan. As of mid-March 2015, it has 128 signatories, including the EU, and 10 ratifications. An EC-commissioned study is about to be finalised, analysing the EU legislative gaps vis-à-vis the treaty requirements and to review the EU Regulation on mercury export ban and safe storage. The study is expected to be finalised early 2015 and a policy package is expected to be produced by the Commission before the summer of 2015. The content of the study and the policy package will be very important in view of advancing mercury policies at EU level. This is important not only for the protection of EU citizens but also to ensure that the leadership role of EU is maintained at the global level and in view of the ongoing intergovernmental negotiations towards a robust implementation of the mercury treaty.

A key priority is to ensure that countries do not lose the momentum and that they ratify the Convention as fast as possible; in order to reach the target of 50 ratifications required to bring about the entry into force of the treaty, if possibly before the end of 2016. Intergovernmental negotiating committee meetings are still foreseen during this period to prepare the ground and provide guidance to the Conference of the Parties (COP), once the treaty enters into force, for a rapid and robust implementation. At the same time, pending entry into force, short term mercury reduction activities are needed. Activities to this end should include targeting mercury trade and supply, phasing out products and processes where effective/efficient alternatives have existed for years, emissions' reduction, and the development and implementation of Artisanal and Small Scale Gold-Mining (ASGM) Action Plans.

**We therefore call on the Dutch and Slovak Presidencies to:**

- Speed up REACH implementation and support an ambitious review;
- Call upon the European Commission to increase human and financial resources for the phasing out and substitution of SVHCs and ensure that no SVHCs will be given an authorisation of use whenever consumers are directly exposed or safer alternatives are available in the market;
- Task the Commission to evaluate the role of Member States, the Commission and the European Chemicals Agency (ECHA) in order to achieve the effective substitution and phase out of SVHCs;
- Request the Commission to propose concrete measures and timetables for achieving the objectives of REACH with regard to SVHCs as well as to avoid the slowdown of the process due to the development of Risk Management Options;
- Urge all Member States and the Commission to commit to a minimum number of SVHC proposals for the candidate list, in order to achieve the 2020 goal of including all known SVHCs in the authorisation list in order to promote a non toxic environment in the EU;
- In this context of authorisation, in particular insist on:
  - Strict demands on general and early substitution of hazardous substances: substitutes should be identified for substances in high quantities or with hazardous properties already in the registration phase;
  - Fewer bottlenecks, lower barriers and decisive time limits for the process of pointing out substances for the authorisation procedure;
  - No authorisation when substitutes exist; statutory deadline on maximum time-limit for review of authorisation;
  - Increased transparency and independent evaluation regarding data provided by industry and agencies;
- Call on the Commission to ensure that appropriate Chemical Safety Assessments and reports are required for low production volume chemicals and polymers when drafting the 2015 REACH review according to article 138(3);
- Insist on automatic and early phase-out and restriction of substances of very high concern present in consumer articles;
- For EDCs, insist on a precautionary identification strategy as well as recognition that these substances cannot be adequately controlled;
- Ensure adequate enforcement of the citizens' right to know on SVHCs in products;
- Urge more enforcement work by Member States as well as better implementation and a stricter approach towards non-compliant companies by ECHA;
- A substantially lowered burden of proof for competent authorities when it comes to decisions on restrictions;
- A complete overhaul of the current risk assessment approaches in order to adequately address cocktail effects of chemicals;

**In relation to nano:**

- Amend all relevant EU product legislation to ensure safety to human health and the environment of all applications of NM and to ensure the strict application of the "no

- data, no market" principle, meaning that any NM-containing products that have not undergone specific nano-safety assessments may not be placed on the market, in particular not in consumer products;
- Call on the European Commission to develop proposals to ensure that all nano-containing products placed on the market (after having undergone assessment procedures) are registered for identification and traceability purposes and included in an EU-wide inventory that is available to the enforcement authorities, academia and the public; in particular adopt additional requirements for the generation of information on intrinsic properties of NM and for the evaluation of their safety;
  - Amend the REACH regulation with provisions addressing NM specifically, in particular to:
    - Ensure that NM are treated differently than their 'bulk' counterparts and fall under the regime of 'non phase-in' substances;
    - Adapt the existing 1 tonne threshold so as to ensure that NM which may be produced or imported by volumes under 1 tonne are effectively registered under REACH;
    - Require a complete overhaul of current risk assessment approaches and test methods in order to adequately address NMs;
  - Amend additional legislation including laws on workers' protection, air quality, water quality, marine environment, ecolabel, CLP and waste, where needed to ensure safety to human health and the environment in relation to all applications of NM;
  - Prioritise EU research projects aiming at closing fundamental knowledge gaps in relation to environmental and health implications over increasing funding in technological developments;
  - Encourage and provide for the introduction of effective public engagement into governance of current and future nanotechnologies;
  - Further integrate social, ethical and environmental aspects related to the assessment of nanotechnology in EU governance.

### **In relation to mercury:**

At the EU level promote further legal actions including:

- If proposed in 2015, the review of the Mercury Export ban and storage regulation which is expected to address expansion of its scope to include mercury-containing products which are banned in Europe, and other issues as per the awaited gap analysis;
- Phasing out mercury in dental care since safe mercury-free alternatives are available;
- Adopting ambitious BAT conclusions with Associated Emission Levels (AELs) in the new Large Combustion Plant Best Available Techniques Reference Document, that will require a reduction in emissions in the sector, since this is the largest source of mercury emissions in the air in Europe and globally;
- Including mercury in the review of the National Emission Ceilings Directive and in the Medium Combustion Plants Directive;
- Promote rapid ratification of the Minamata Convention by the EU and individual Member States;

At the global level

- Continue the EU leadership role on activities related to preparation for ratification and implementation of the Minamata Convention on Mercury;
- Ensure that the EU continues working collaboratively with NGOs as the process moves forward to foster quick EU and developing countries' ratification and eventually effective implementation of the treaty;
- Ensure that the EU supports both financially and technically the existing international work on areas such as:
  - Development of mercury inventories and national implementation plans in developing countries during the interim period to better allow implementation of the treaty measures after the treaty enters into force;
  - Supply and storage, by supporting closure of the mercury mine in Kyrgyzstan and encouraging other regions/governments to adopt mercury export bans;
  - Demand reduction activities, as in artisanal and small scale gold mining, mercury added products production/use and other areas.

## **9. TOWARDS A SUSTAINABLE FOOD AND FARMING POLICY**

The prospects for truly sustainable food and farming in the EU are beset by numerous challenges. The natural resources that farming depends upon, such as biodiversity, water and soil, are being eroded on a massive scale, and climate change, which farming not only suffers from but contributes to, is compounding matters further still. Yet despite the urgent need for targeted intervention, scientific analysis of the new Common Agricultural Policy reveals that new 'greening' rules will do little, if anything, to reverse these trends.

Discussions around the policy post 2020 will kick off already in 2016 and keeping in mind how long it took for the previous reform to be formally adopted (5 years between the Communication and the publication of the deal in the official journal of the EU), it is important to start early and from the right basis.

The main focus recently has solely been put on simplification of the new policy instead of focusing on a proper monitoring of the impacts of the new measures. Simplification is currently being used as a way to further dismantle the bits left from greening, by the same actors who in the first place called for greater flexibility in the policy, and hence led the final result towards a complicated policy that is set to fail to deliver in practice. Simplification should only be used as a way to better achieve the objective of the new policy, meaning the sustainable management of natural resources; it should not be used as a way to deviate from it.

Against this background, it is of paramount important to first monitor carefully the impacts of the greening of the policy on the environment, and whether or not it delivers towards sustainable management of natural resources, and to use simplification only as a way to improve the fulfillment of this objective. Monitoring will also be crucial for the Ecological Focus Areas revision scheduled for 2017. It will also be important for the improvement of Pillar 2 delivery throughout the implementation period.

It is on the basis of a proper evaluation of the impacts of greening towards the objectives, not towards the bureaucracy, that the future policy should be based.

Along with the discussion on the future agricultural policy there will also be discussions on the MFF review, and if the CAP is not promoting public goods as it was meant to, serious questions will need to be answered as regards the budget allocated to it.

The loss of biodiversity due to intensive farming is so serious that the EU biodiversity target cannot be met without urgent measures in the agricultural sector. Such measures cannot wait for an eventual revision of the CAP and should be discussed by Member States immediately, followed by decisions that improve the situation by 2020 at the latest.

**We therefore call on the Dutch and Slovak Presidencies to:**

- Call for a proper monitoring of the new CAP (both Pillars) against its primary objective, namely the sustainable management of natural resources, especially in view of the EFAs review scheduled for 2017 and the green infrastructure report by the end of 2017, and prepare proposals on the future policy;
- Call for a review of the implementation of greening for ensuring better delivery and prevent the simplification agenda contributing to any further dismantling of it;
- Promote a discussion among Member States on urgent measures, beyond the CAP, needed to stem the loss of farmland biodiversity highlighted by the SOER.