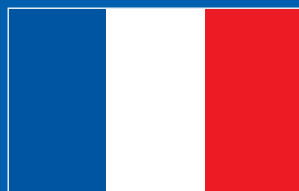


**EEB MEMORANDUM  
to the  
FRENCH EU PRESIDENCY**



**JULY 2008**

European Environmental Bureau



EEB PUBLICATION NUMBER 2008/005

## **The European Environmental Bureau (EEB)**

EEB is a federation of over 145 environmental citizens' organisations based in all EU Member States and most Accession Countries, and in a few neighbouring countries. These organisations range from local and national, to European and international. The aim of EEB is to protect and improve the environment of Europe and to enable the citizens of Europe to play their part in achieving that goal.

The EEB office in Brussels was established in 1974 to provide a focal point for its Members to monitor and respond to the emerging EU environmental policy. It has an information service, runs working groups of EEB Members, produces position papers on topics that are, or should be, on the EU agenda, and it represents the Membership in discussions with the Commission, the European Parliament and the Council. It closely coordinates EU-oriented activities with its Members at national level, and also closely follows the EU enlargement process and some pan-European issues.

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AN INTERNATIONAL NON-PROFIT ASSOCIATION  
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**EEB MEMORANDUM  
TO THE FRENCH EU PRESIDENCY**

**JULY 2008**

**Addressing:**

**The Agriculture Council  
The Energy Council  
The Environment Council**

“Europe is acutely aware of the need to combat local and world-wide environmental degradation. We shall act together to achieve sustainable development and guarantee a better quality of life for future generations.”

Millennium Declaration, European Council, Helsinki, 11 December 1999

## TABLE OF CONTENTS

INTRODUCTION .....	3
EEB's 10 GREEN TESTS FOR THE FRENCH EU PRESIDENCY.....	5
1. AGRICULTURE COUNCIL.....	8
1.1. Cap Reform Proposals.....	8
1.2. Co-Existence of Gm Crops with Conventional and Organic Farming .9	
1.3. Genetic Contamination of Seeds .....	10
1.4. Genetic Contamination of Animal Feed.....	11
2. ENERGY COUNCIL .....	12
2.1. EU Renewable Energy Policy .....	12
2.2. Greening Public Procurement of Transport Vehicles .....	13
2.3. Review of The Energy Tax Directive .....	14
3. TRANSPORT COUNCIL .....	16
3.1. Eurovignette .....	16
4. ENVIRONMENT COUNCIL .....	18
4.1. Post-2012 EU Climate Agenda .....	18
4.2. Carbon Capture and Storage (Ccs).....	19
4.3. Sustainable Consumption and Production .....	20
4.4. Review of the IPPC Directive.....	22
4.5. Globally Harmonised System of Classification and Labelling of Chemicals .....	23
4.6. Climate and Road Transport .....	24
4.6.1. CO2 Emissions from Passenger Cars.....	24
4.6.2. Fuel Quality Directive .....	26
4.7. Air Quality .....	27
4.7.1. Euro Vi – Regulation on Engine Emissions from Buses and Heavy Duty Vehicles.....	27
4.7.2. Emissions from Ships in The International Maritime Organisation (Imo).....	28
4.7.3. National Emissions Ceilings (NECs).....	29
4.8. Fuel Efficient and Quiet Tyres.....	30
4.9. Biodiversity.....	31
4.10. Reduce Emissions, Supply and Demand for Mercury.....	32
4.11. Framework Directive on Soil Protection.....	33
4.12. Relaunch the Access to Justice Directive.....	33
4.13. Review of The Authorisation Procedure For GMOs .....	35

## INTRODUCTION

The French Presidency has created high expectations within the environmental movement across the EU. In summer 2007, the new government started a unique debate with stakeholders which led to the ambitious “Grenelle Agenda for the Environment”. Not only is the content interesting but, maybe even more crucially, it reflects a consensus between the government, environmental NGOs, trade unions, businesses and consumers. It was also not a one-off event, but will be followed by implementing legislation and working groups to iron out specific issues.

The Grenelle Agenda reflects both global and French-specific priorities. It ensures that France will be constructive in its role working on an early agreement on the Energy/Climate package, which was launched by the Commission in January this year. Adoption of the package is very important, as it will determine to a large extent the credibility of the EU in the upcoming global negotiations on a post-Kyoto agreement to reduce greenhouse gas emissions. The Grenelle Agenda also gives France increased credibility in leading on the second major challenge for the EU - halting the decline of biodiversity by 2010. It addresses this crisis not only through concrete plans to create green and blue corridors, but also because of its determination to tackle the expansion of highways and urban sprawl and boost organic agriculture. With regards to energy efficiency the Grenelle Agenda is ambitious in its plans to ensure that by 2020 new buildings will produce at least as much energy as their inhabitants and users consume.

Yet, in the last few months we have also seen that France has not suddenly turned into an uncompromised leader in ecological modernisation. It surprised everyone December last year by joining the opposition to the Soil Directive, providing the final weight for an effective blocking of the Directive. Five countries blocked a Directive that 22 Member States want, many of which need it to move forward on the protection of what is becoming one of our scarcest resources: fertile lands with good water supply. As this was the result of a political deal with Germany rather than a genuine domestic agenda, France has in the meantime committed itself to reopening the discussion, but its initial proposals are making the Directive unacceptably weak.

In another recent surprise move, this time in an open deal with Germany, France accepted weakened proposals on the Directive on CO<sup>2</sup> emissions from cars. French car-producers do not need these weakened criteria as much as the Germans, so from that viewpoint alone it is incomprehensible that this happened. More seriously, a Directive that would lead to rapid innovation has been compromised because the proposed penalties would not have enough bite to force the change.

At the national level, environmental NGOs are concerned that the Grenelle consensus has not led yet to a freeze on infrastructure projects with potential environmental damage.

We truly hope that these examples will not be continued and that during the next six months the French Presidency will promote and not betray the true spirit of the Grenelle Agenda. We are looking forward not only to its role in the energy and climate package, but in the decisions to be made on agriculture, biofuels and GMOs, areas where a “new”

France could emerge, one that breaks with France's traditional production-oriented approach within the EU.

With regard to what is the main challenge for modern societies - our consumption patterns - we hope for real leadership from France in bringing some vision into a debate that will be opened by the Commission on a rather unambitious, technical and bureaucratic level with the presentation of the timid Sustainable Consumption and Production Action Plan this month.

The Memorandum in front of you reflects the issues the EEB wants to see progressing during the French Presidency. The most important issues are presented in the Ten Green Tests. These tests will also be used to evaluate, at the end of the December, the performance of the EU in the six months to come. While we address the Presidency directly, we do realize that it needs the cooperation of the Commission, European Parliament and other Member States to make progress. Still, Presidencies can make a difference if they invest their political and technical capacities into the right issues.

We are looking forward to a successful French Presidency.

*John Hontelez, Secretary General, European Environmental Bureau*  
*Georges Cingal, Vice-President, European Environmental Bureau*

## EEB's 10 GREEN TESTS FOR THE FRENCH EU PRESIDENCY

### 1. WORK TOWARDS A CLEAN AND SAFE ENERGY FUTURE

- Reach an effort-sharing agreement between Member States that guarantees, by 2020, energy production based on a minimum of 20% environmentally sound renewable resources.
- Accelerate energy efficiency as an essential element of the EU's energy policy as well as product and building policies.
- Carbon Capture and Storage should operate only under strict environmental, safety and liability requirements, determined by the EU based on independent studies and tests and laid down in EU law.

### 2. LEAD ON CLIMATE BY EXAMPLE

- Reach an effort-sharing agreement amongst Member States that ensures at least 30% domestic greenhouse gas reduction compared with 1990 for the EU, with all Member States accepting a fair share of the common target.
- Agree on an Emission Trading Scheme that gives certainty on emission reductions through a top-down EU-wide cap, applying full auctioning and no use of external credits.
- Earmark all the revenues of the above auctioning, with a 50/50 split between financing climate friendly projects in the EU and supporting developing countries in GHG mitigation and adapting to climate change.
- Work towards a binding post-Kyoto agreement that ensures that temperature increase will remain below 2 degrees.

### 3. PREVENT ENVIRONMENTALLY NEGATIVE BIOFUELS PRODUCTION

- As long as environmentally and socially sound production cannot be guaranteed, abandon the 10% biofuels target for 2020.
- Include in the Fuel Quality and Renewables Directives:
  - Minimum performance standards of 60% GHG-savings for biofuels in comparison to fossil fuel;
  - Clear provisions for life cycle analysis, including direct and indirect land use changes and other environmental and social impacts;
  - Sustainability criteria addressing impacts on water, soil and biodiversity resources as well as social criteria;

### 4. REDUCE ENVIRONMENTAL IMPACTS OF ROAD TRANSPORT

#### *Regarding the CO<sup>2</sup> emissions directive for passenger cars:*

- Limit average CO<sup>2</sup>/km emissions to 120 g/km and set an 80 g/km target for 2020.
- Reject the integrated approach and inclusion of biofuels, focusing instead on technical means only.
- Refuse differentiation on the basis of the weight of cars and ensure differentiation means an obligation for high-emitting cars to reduce more, for example by basing it on the car's 'footprint'.
- Include stringent financial sanctions for cars with emissions over 150 g/km.

***Regarding Eurovignette Revision:***

- Require in the revised Eurovignette the internalisation of external costs regarding air and noise pollution, climate impacts, accidents and congestion. Seek inclusion of land use and biodiversity impacts where possible.

**5. GREEN EU AGRICULTURE POLICIES**

- Respond to the current food crisis by promoting demand measures, starting with reviewing the EU's biofuel policy, rather than returning to production support measures.
- Fully involve the Environment Council in the decisions on the Commission's proposal within the framework of the CAP Health Check
- Significantly beef up Commission proposals in the field of biodiversity protection, climate change and water management by:
  - Increasing proposed modulation rates
  - Protecting grasslands
  - Introducing minimum size for buffer strips along water

**6. SUSTAINABLE CONSUMPTION AND PRODUCTION**

- Step out of the limitations of the Commission's Action Plan and organise a debate on how the EU can achieve sustainable consumption and production patterns by identifying the role of public authorities (through legislation, financial instruments, green procurement), businesses and consumers.
- Call for the Commission to come forward by mid-2009 with resource efficiency targets of Factor 4 by 2030 and Factor 10 by 2050 as an overall guiding efficiency strategy, to be further elaborated for specific classes of resources. Call for development of sustainability criteria on natural resources, as in the Fuel Quality Directive, to help guide more sustainable resource use.
- Broaden the revision of the Ecodesign for Energy-Using Products Directive proposal beyond the 'energy-relevant products', in particular to consumer products having significant environmental impacts in non-energy areas.
- Strengthen the proposal for revision of the European Ecolabel Regulation, giving clear objectives for reducing environmental and human health impacts.
- Insist on the roadmap for environmentally hazardous subsidies.
- Ensure the adoption of ambitious eco-design measures for lighting, boilers and water heaters, as well as on the energy consumption of appliances during stand-by no later than December 2008.

**7. ENSURE A COHERENT FRAMEWORK FOR INDUSTRIAL POLLUTION CONTROL**

- Keep the recast of the IPPC Directive water tight: stick with the scope of Commission's proposals for change.
- Maintain existing Emission Limit Values in sectoral directives as a critical safety net and ensure their tightening to reflect emission levels achievable through application of Best Available Techniques (BAT).
- Ensure transparency in implementation by making permit applications and permits permanently available to public on national websites.
- Make using the BAT Reference Documents (BREFs) by local competent authorities obligatory to the permitting process.
- Establish BREF review as a trigger for permit review in order to secure continuous improvement in environmental performance

## **8. KEEP WORKING ON THE SOIL FRAMEWORK DIRECTIVE**

After the failure at the December Environment Council, find a compromise between Member States that will include:

- A common approach to identifying contaminated sites and drawing up inventories;
- Clarification that in case of possible overlap between existing legislation and the soil directive, the most stringent provisions will apply;
- Clear legal principles which establish a hierarchy of measures giving preference to prevention over clean-up;
- A mandatory chemicals analysis as part of the soil status report.

## **9. MOVE TOWARDS AN ACCESS TO JUSTICE DIRECTIVE**

- Relaunch negotiations on the Access to Justice Directive, along the lines of the Commission proposal and EP amendments, as a tool to increase pressure on public authorities and private actors to respect and apply environmental law

## **10. REDUCE MERCURY USE GLOBALLY**

Continue the EU's positive, pro-active role in phasing out mercury at the 2<sup>nd</sup> UNEP Open Ended Working Group on Mercury (October 2008) by developing international legal instruments to address mercury and in parallel press for:

- 70% global mercury use reduction by 2017.
- Banning mercury use in electronics, button cell batteries, thermometers and other non-electronic measuring equipment.
- Phase out mercury cell chlor-alkali processes and manage mercury from defunct chlor-alkali facilities.
- A roadmap for increased use of mercury-free technologies in small-scale and artisanal gold mining, including with sector-specific demand and a reduction goal of 50% by 2017.
- Reduction of mercury supply by halting primary mining, except where mercury is produced as a by-product from other ore processing.
- Restriction of mercury exports from developed nations.
- New and additional financial resources for these activities in developing nations.

## 1. AGRICULTURE COUNCIL

### 1.1. Cap Reform Proposals

On May 20th this year, the Commission published its proposals for the CAP Health Check, after having received opinions from the European Parliament and the Council and having run a public consultation exercise on the Communication in which it outlined its policy proposals. The first response from the Council to these already modest proposals in the Communication leaves us little hope that even these tame proposals from the Commission will survive.

EEB is worried about the conclusion the French government is drawing from the current hike in food prices and the ensuing food crisis in many parts of the world, i.e., that Europe now has a moral responsibility to feed the world. This pressure for increased productivity could lead to serious increases in environmental impacts, greater contributions to climate change, biodiversity loss and water management problems. It will undermine the already weak CAP-related proposals from the Commission to reduce these pressures. Furthermore, increasing exports from Europe might not be the right answer to food shortages in other parts of the world as it could further damage local production and markets, as has happened previously.

EEB also insists that the preferential treatment of biofuels production on agricultural land in response to recent developments must be stopped.

Although the Commission's proposals for the Health Check are inadequate to meet the challenges it acknowledges in its Communication they do contain some valuable elements which as a minimum require Council support and beefing up.

Most importantly the Commission is leaving important spending decisions to Member States which increases the chances that subsidies will continue to flow to the same beneficiaries as usual irrespective of whether they provide the environmental benefits these subsidies are meant to reward. This is especially problematic for the flexibility Member States will be given in introducing a 'flatter rate' payment instead of the historic payments and in spending the new Article 68 (formerly known as Article 69) or national envelope. But where the Commission still has more opportunity to influence, such as the spending of rural development funding, the Commission's proposal for modulation amounts to an overall transfer of less than €5bn from "Pillar 1" to "Pillar 2" (rural development), down from the €7.4bn that the Commission had proposed in its green paper last year. This amount will not be sufficient to help address the future challenges that have been identified.

The only positive aspect of the Commission's proposal is that it addresses two key failures of the current cross-compliance system by bringing in explicit protection landscape elements such as hedgerows and ditches and by introducing an obligation to manage buffer strips along water courses as a means of reducing water pollution (although it doesn't set a minimum size for such strips). But it fails to address other key

problems such as preventing the ploughing of permanent grasslands, a crucial measure for protecting biodiversity and avoiding accelerated climate change. Although it highlights the importance of water management, it does not propose any effective measures to address the unsustainable use of water, including illegal water abstraction that is driving hydrological collapse in many Mediterranean regions.

**EEB therefore calls on the Presidency to:**

- Respond to the current food crisis by promoting demand measures, starting with reviewing the EU's biofuel policy, rather than returning to production support measures.
- Fully involve the Environment Council in the debate on the future EU agriculture policy
- Significantly beef up the feeble Commission proposals in the field of biodiversity protection, climate change and water management by:
  - Increasing proposed modulation rates
  - Protecting grasslands
  - Introduce minimum size requirements for buffer strips along water

## **1.2. Co-Existence of Gm Crops with Conventional and Organic Farming**

An important law is still missing at EU level to ensure a genuinely informed choice for both consumers and farmers: rules on co-existence which would effectively prevent the genetic contamination of conventional and organic productions in Europe. Without clear and coherent EU legislation on co-existence, genetic contamination will soon become a *fait accompli* in EU agriculture, depriving European consumers and farmers of the right to choose. It will also spell the end of organic farming as we know it.

The Commission has postponed an update to the Council and European Parliament, which was originally foreseen for spring 2008 on progress made on implementing national measures on the coexistence of GM crops with conventional and organic farming, related to the Commission guidelines adopted with Recommendation 2003/556/EC. Implementation of the Commission's guidelines has so far been a failure across the EU because of the clear practical difficulty of growing GM crops without contaminating traditional and organic cultivation. In response, thousands of local and regional authorities around the EU are also demanding the exclusion of GM crops in their area, to protect their local economy, culture, environment and citizens' health.

Against this background, the only viable solution is an EU regulation recognising the democratic right of local and regional authorities to decide whether GM crops can be cultivated in their own area. Such an approach is supported by the European Parliament resolution adopted in December 2003 where it:

- "calls for uniform and binding rules to be established without delay at Community level on the co-existence of genetically modified crops on the one hand and non-genetically modified conventional crops on the other hand;
- Takes the view that Community co-existence must allow Member States the right to prohibit completely the cultivation of gmos in geographically restricted areas so as to safeguard coexistence".

**EEB therefore calls upon the French Presidency to work for uniform and binding Community rules allowing Member States the right to set up GM-free zones at the local and regional levels.**

### **1.3. Genetic Contamination of Seeds**

The Environment Council on 5 June 2008 confirmed the need for the definition of labelling thresholds for GMO seeds at European level.

The Council – in the Conclusions on co-existence adopted on 22 May 2006 – invited the Commission to “come forward, as soon as possible, with Community labelling thresholds for seeds, which should be set in such a way that is in any case possible to respect the labelling threshold for the final product at the end of the food chain. The level of the thresholds should allow freedom of choice throughout the whole food production chain, and it should not create a disproportionate burden for any group of operators”.

The purity of seeds is the single most important factor that will determine whether co-existence – between conventional/organic and GM products - and freedom of choice of both farmers and consumers are possible or not. Seeds are the basis of the food production chain. The value decided for these thresholds is the crucial measure that will determine the feasibility, the complexity and the costs of the coexistence measures further down the production chain.

The Commission is working on a Decision, “establishing minimum thresholds for adventitious or technically unavoidable traces of genetically modified seeds in other products,” which foresees thresholds up to 0.5% (see also the questionnaire for the online stakeholders consultation). This approach offers no guarantee that farmers and the food industry will still be able to offer non GM products and it will, in any case, create massive additional costs for all economic operators further down the production chain. In fact, it reduces the remaining "safety margin" to between 0.1% and 0.9% for farmers, processors and retailers and thus shifts the burden of costs and risks to other businesses and markets than those introducing and demanding the GM products. The quantity of seeds used typically amounts to less than 1% of the quantity of produce yielded from them. It appears to be common sense that controlling the contamination at the source will incur - by magnitudes - much lower costs than controlling the vast and diverse amounts of products instead; especially as commercial seeds are already a highly controlled product and seed producers will have to test for the presence of GM traces anyway. Thus, even if seed costs were doubled, their share would be minimal compared to the overall costs of the final product.

Moreover, by undermining the market for non GM products, the genetic contamination of conventional and organic products will destroy businesses and threaten jobs in the agri-food sector, which in the past has already suffered too much from food scandals to risk again going against consumer trust. From a strictly economic perspective it appears that costs and risks of GM production are arbitrarily shifted onto farmers, food processors and retailers to the benefit of the seed Industry.

**Therefore EEB calls upon the French Presidency to work for strict purity standards regarding GM contamination of seeds, legally and technically established at a reliable detection limit of 0.1%, the same threshold that the European Parliament, in its own report on co-existence, has also proposed.**

#### **1.4. Genetic Contamination of Animal Feed**

The Commission is working on a proposal concerning the introduction of a contamination threshold also for unauthorised GMOs in animal feed, under growing pressure from EU feed-makers warning that the consequences of Europe's "zero tolerance" for unauthorised GMOs could be catastrophic for the feed sector. The proposal follows a DG Agriculture report on the potential impact of the EU's GMO regime on the availability and price of animal feed.

The timing of the proposal coincides with high levels of media and political interest in rising food and feed prices around the world.

There is little evidence to suggest that weakening the GMO regime in Europe will address this. Price increases have occurred all over the world – even in the US which has the most permissive system of GM approvals.

The EU, one of the world's biggest trading blocks, carries weight in the international arena and can help determine what exporting countries cultivate, including whether they go ahead with new GMOs. Argentina and Brazil are indeed cautious about approving new GM crops that could hurt their exports to the EU and we would strongly urge the Council and the Commission to continue to push for producer countries to cultivate animal feeds that correspond to what consumers want to eat.

On average more than half of the European public is opposed to the use of genetically modified organisms, and many EU countries in fact have higher levels of concern, reaching up to 70-80%.

#### **Therefore EEB calls upon the French Presidency to:**

- Work at EU level to develop plant protein crops in Europe with a view to becoming less dependent on animal feed imports. This would be a solution to getting real GM-free animal products, in line with the wishes of the majority of European consumers; and
- Ensure that the EU resists pressures to weaken its GMO regulations and instead promotes and defends high health and safety standards for consumers, animals and the environment around the world.

## 2. ENERGY COUNCIL

### 2.1. EU Renewable Energy Policy

The legislative proposal on renewable energy that the Commission published on 23 January 2008 is by and large acceptable to the EEB - with the clear exception of the specific target for biofuels and the nature of the biofuels sustainability criteria proposed.

Over the last few months a whole range of scientific reports and studies have come out questioning the wisdom of setting a 10% biofuels target. The latest of these is the "Gallagher report", commissioned by UK Transport secretary Ruth Kelly, which came out in June and found that the rush to develop biofuels has played a "significant" role in the dramatic rise in global food prices, which has left 100 million more people without enough to eat.

However, although second generation biofuels, or biofuels sourced from waste streams from agriculture and forestry, are now increasingly seen as a better alternative (including in the Gallagher report), they also have significant drawbacks and implications and should not be used as an excuse not to make a u-turn on the biofuels target. Most importantly, 'waste streams' from forestry and agriculture have rather important ecological functions as they bring back nutrients into the forestry and agriculture systems as well as generally enhance soil quality and structure. But even those parts of a waste stream that could be taken out sustainably can in many cases be more effectively used for material purposes or, if for energy, in a stationary power plant. Lastly, competition between second generation biofuels and food production will still persist, albeit for indirect production resources such as water, soil and land. This means that in the case of waste streams the volumes of available for environmentally sound biofuels production will also be limited. In order to ensure that those limited amounts of biofuels which could be produced sustainably are in fact sustainable, more stringent criteria need to be developed than the Commission proposed in its Renewables Directive or the preliminary results from the Ad Hoc Working Group of officials working for the Council of Ministers.

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

- Reach a target-sharing agreement between Member States that guarantees energy production based on a minimum of 20% environmentally sound renewable resources by 2020.
- Drop the 10% target for biofuels as long as environmentally and socially sound production cannot be guaranteed
- Adopt stringent sustainability to ensure that those biofuels produced today are truly sustainable, which should include binding intermediary targets including:
  - A high GHG saving threshold of minimum 60%
  - Clear requirements for lifecycle assessment and sustainability criteria which should include the impacts of indirect land use changes for all uses of biomass energy and biofuels.
  - The abandonment of a possible trade of renewable energy credits between companies and the agreement on a flexibility mechanism

between Member States that does not jeopardise successful national support policies for renewable energy.

- No loopholes that could undermine the 20% objective for renewable energy inside the EU by 2020.
- Simple administrative process for renewable energy.
- Favourable access conditions for renewable energy to the electricity grid, as well as gas networks and district heating networks.

## **2.2. Greening Public Procurement of Transport Vehicles**

On 19<sup>th</sup> December 2007, the Commission published a new proposal to promote greener procurement policies with regard to road transport vehicles purchased by public authorities. It proposed a mandatory methodology to calculate the lifetime costs of such vehicles, taking into account not only fuel consumption but also the usually non-internalised costs of CO<sup>2</sup> and pollutants emissions. The mandatory approach to the application of this methodology would ensure legal certainty for the procurement of clean and energy efficient vehicles and provide the necessary market incentives and market uptake. This would serve to contribute to energy efficiency in transport by reducing fuel consumption; contribute to climate protection by reducing CO<sup>2</sup> emissions; and improve air quality by reducing pollutant emissions. It is also important to help meet the requirements of the Air Quality Directives (Directive 96/62/EC on air quality and Directive 1999/30/EC on limit values of pollutants of ambient air), as well as the EU's climate and energy objectives.

The European Parliament is on its way to a first reading. The Council has reached a general approach on the draft directive, with several proposed changes.

**EEB welcomes this proposal and calls upon the Presidency to take it seriously as a step towards greening public procurement by authorities at all levels and including private entities to fulfill public tasks, which could give a major boost to more environmentally friendly technologies, goods and services.**

**Therefore EEB calls on the Presidency to:**

- Support the Commission's proposal for mandatory application of operational lifetime costs for energy consumption, CO<sup>2</sup> emissions and pollutants from road vehicles as criteria for the procurement or purchase of public road transport vehicles in the EU
- Insist that the criteria for operational lifetime costs for energy consumption, CO<sup>2</sup> emissions and pollutants from road transport vehicles enter into force by 1 January 2010
- Demand the introduction of an annual target of 70% procurement of clean and energy efficient vehicles by local, regional and national authorities.

### 2.3. Review of The Energy Tax Directive

EEB welcomes the proposed review of the Energy Tax Directive, outlined in the Commission's March 2007 Green Paper on Market-based Instruments for Environment and Energy-related Purposes, which focuses on revising minimum Community tax levels. The Commission is expected to publish this review during the French Presidency.

The 2003 Directive, which was adopted after six years of negotiations, set minimum rates of taxation for motor fuels, heating, solid fuels and electricity. Member States may not apply tax rates that are lower than the minimum rates set in the Directive. However, the Directive is rather weak compared to the original European Commission proposal in 1997. The minimum tax rates are low, many exemptions can be applied to energy-intensive industries and households and there are too many transition periods for ending pre-existing tax rebates. This result exemplifies the drawback of unanimity voting on fiscal matters, which still applies even under the new Treaty.

The 2007 Green Paper suggests dividing Community-wide minimum tax levels into energy and environmental elements, which would then be reflected nationally in the form of targeted emissions taxes. This would mean introducing a tax on the energy content of all fuels, together with a differentiated environmental tax, which would distinguish between greenhouse gases and non-greenhouse gas emissions. The Commission believes such a tax differentiation would favour both energy conservation and environmentally-friendly energy sources, notably renewable energies. According to the Commission, other elements should be taken into account, for example, tax differentiation according to the type of use. The implications of such a system on nuclear energy use need further investigation. EEB opposes any nuclear energy advances, whether under the guise of reducing climate change or otherwise.

The Green Paper also includes suggestions on the review of the EU Emission Trading Scheme (ETS). One is to ensure that the environmental impacts of sectors outside the current ETS scope, such as aviation and small installations, are covered by the Energy Tax Directive. The paper also cautiously suggests excluding sectors covered by ETS from the Energy Tax Directive's scope, suggesting that their environmental impacts have already been taken care of by the ETS. EEB challenges this approach and advises further analysis, particularly in light of evidence from the first trial period of the ETS (such as free allocation of carbon credits) and its current revision.

In fact, while the objectives of the two instruments – ETS and energy taxation - do overlap, they are also different. ETS aims solely at cost-efficient reduction of CO<sub>2</sub>-emissions, while energy taxation also has the following objectives:

- General financing of the budget,
- Resource protection and efficiency increases,
- Incentives for innovations,
- Internalisation of external costs caused by emissions from other non-ghg emissions, and
- Increasing employment through a reduction of social security contributions.

In addition, overlaps are not necessarily double burdens. The latter are justified as long as they are still lower than the external environmental costs.

EEB stresses that the review of the Energy Tax Directive should be seen as an opportunity to contribute to meeting the EU's numerous objectives and commitments, such as those outlined in the EU Sustainable Development strategy, climate and energy objectives, and promoting a clean, eco-innovative economic development in line with these objectives.

**Therefore EEB calls on the Presidency to:**

- Demonstrate political leadership by taking ambitious action nationally while pushing the European Commission and other Member States, following President Sarkozy's announcement of a carbon tax and a border tax adjustment as appropriate tools for mitigating climate change and unfair trade impacts;
- Ensure that the current minimum tax rates on energy are not reduced even further, but that they definitely are strengthened in line with the EU's climate and energy objectives and inflation's devaluation of the real incentive of nominal tax rates. To this end, the financing function of energy taxes should also be reflected by keeping energy tax rates at least at the current level (including corrections for inflation) and proposing the environmental dimension on top of it.
- Ensure that further objectives, such as fully contributing to infrastructure financing and internalisation of external costs, are reflected particularly in the rates for the transport sector;
- Request that the Commission ensure that all energy consumption is regulated under the Energy Tax Directive (given the reasons mentioned above of partly different objectives) - so that there are no gaps left;
- Ask the Commission to ensure a targeted and ambitious ETS from 2013 with 100% auctioning, or alternatively include sectors of the ETS in energy and environmental taxation which means cutting most currently eligible exemptions;
- Promote the development, introduction and market-uptake of environmentally sustainable renewable energy. Ensure that renewable energies (except for biofuels with a disputable environmental and social nature) can be exempt from the proposed minimum environmental tax element. However, in order to promote energy efficiency and savings, such renewable energy does not have to be excluded from the energy taxation.
- Ensure that nuclear energy is not given preferential treatment, particularly because of its potential dangers and waste legacy. In particular, introduce a tax on uranium and ensure strict application of liability requirements for its long term waste management
- Promote agreement for a political process for an EU-wide Environmental Fiscal Reform as distortions are minimised, whilst financing efficient appliances, building insulation and renewable energies for those who cannot afford it. All Member States should be obliged to shift the burden of taxes on labour to taxes on energy, natural resources and environment. The objective should be an average increase in the EU of about 10% in the next decade; and finally,
- Call on the Commission to develop a roadmap for the removal of subsidies that are harmful to the environment, before the end of this year, as required by the EU Sustainable Development Strategy agreed in June 2006. Along these lines, call for a phase out of subsidies to coal mining/use and nuclear energy such as through liability limitations for operators.

### 3. TRANSPORT COUNCIL

#### 3.1. Eurovignette

In July, the Commission is expected to publish a review of the Directive on road infrastructure charging (Eurovignette) to allow for the internalisation of external costs.

This review is necessary and long overdue. The current Eurovignette Directive prohibits implementation of the 'polluter pays principle'. This needs to be urgently fixed, for economic, environmental and political reasons. We need broader and smarter road charging in Europe. The science is robust. One of the key conclusions from the IMPACT study, which underpins the upcoming proposal, is that *'scientists have done their job (...) general figures (within reliable bandwidths) are ready for policy use.'*

We fear however, that the Commission's proposals will be not sufficient.

The Directive should allow Member States to internalise the costs associated with climate change, in order to fully take into account the polluter pays principle as outlined in the Treaty. Even recognising that these costs *could* be effectively addressed through taxation, it is not the role of the EU to prohibit Member States from implementing measures to respond to the challenge of climate change, especially when a clear methodology to quantify those costs is available.

We are concerned that the Commission seems to take the view that Member States should not be allowed to internalise accident costs through road charges. This is incomprehensible from a scientific perspective and also marks a u-turn from the 2003 proposal (2003/448) for the previous review of the Directive, which proposed allowing Member States to internalise accident costs. The science has become more robust in the last five years, not less, and there is now no controversy over the methodology for calculating accidents costs. The IMPACT handbook showed that a substantial portion of accident costs are not internalised through insurance premiums or other risk anticipation considerations. For example, the costs of emergency services and the temporary closure and clean-up of motorways are not paid by those that cause accidents. By excluding accident costs the Commission would put the credibility and coherence of the entire package at risk.

Time-based vignettes have no place in a 'smart charging' framework. In contrast to distance-based charges, they do not encourage transport efficiency or help to meet environmental targets. With the falling technical implementation costs of distance-based charging systems, the time has come to consider a mandatory transition from vignettes to distance-based tolls, or at least very strong incentives towards such a transition. Experiences with existing smart charging systems in Austria, Germany and Switzerland confirm that these schemes contribute to general efficiency and competitiveness with better load factors, cleaner vehicles and no noticeable impact on inflation.

The Commission seeks to ensure that transit countries are not allowed to introduce disproportionately high charges. But the proposal as it currently stands caps charges at

the average costs. That is a blunt approach, and not scientifically robust, making it impossible to internalise at least half of the external costs generated by foreign road vehicles and undermining the objectives of this review. The Commission should propose a transparent methodology that Member States should follow, with built-in guarantees against excessive charges without restricting the ability to determine optimal charges.

The default values the Commission is going to propose will likely differentiate only between “suburban roads” and “other interurban roads” and will not provide guidance on sensitive regions. The IMPACT study recognised the existence of regions for which external costs have to be determined in a different way. For example it is estimated that for the Alpine region, the damage created by road traffic might be on average a factor of 2.0 higher than for a flat ‘normal’ area. Mountain areas may be more sparsely populated than, for example, the Netherlands, but in the valleys, density is high. And importantly, natural phenomena can seriously exacerbate environmental problems in these areas; echoes cause greater noise pollution and inversion of air layers causes air pollution to rest at lower levels, causing greater environmental and health impacts.

We also insist that revenues should not be given back to the polluters. It is important to ensure that revenues from charges designed to internalise external costs are not earmarked for the mode of transport that generated them. That would create a highly perverse mechanism: the more pollution or nuisance a mode causes, the more revenues it would get. The revenues should rather be used to achieve a ‘double dividend’: less pollution, more economic efficiency and employment. This can be done, for example, by using the revenues to lower ‘bad’ taxes such as those on labour. This could also contribute to increasing the public acceptability of charging schemes.

**EEB therefore calls on the Presidency to:**

- Ensure that inclusion of accident and climate costs in the Eurovignette is obligatory or at least allowed.
- Allow for inclusion of land use and biodiversity impacts.
- Focus on smart charging, linked to actual distances rather than time.
- Allow for optimal charging by individual Member States and special rates for sensitive regions.
- Do not give the revenues back to the road transport sector.

## 4. ENVIRONMENT COUNCIL

### 4.1. Post-2012 EU Climate Agenda

The four main elements in the Commission's Energy/Climate Package of 23 January 2008, which was intended to achieve the agreements set at Spring 2007 European Council, include:

- An effort-sharing proposal between Member States to reach a 20% EU greenhouse gas reduction target by 2020 (compared with 1990);
- An effort-sharing proposal between Member States to reach a 20% overall EU renewable energy consumption rate by 2020;
- A proposal on the future of the EU Emissions Trading System; and
- A proposal to promote and regulate Carbon Capture and Storage (see item 4.2)

EEB insists that EU energy policy for the next 40 years must contribute to the global objective of reducing the rise in global temperature to less than 2°C over pre-industrial levels, with measures proportionate to the EU's current and historic per capita contribution to global warming. This means the EU must achieve at least a 60-80% reduction in annual greenhouse gas emissions by 2050 compared with 1990. Its energy policy should fully integrate other environmental requirements, such as conserving EU and global ecosystems and protecting public health. It should also contribute to universal sustainable development.

EU's Energy Policy must be characterised by measures that enable:

- Reduction of energy needs: systematically promoting energy efficiency and life-style changes. Energy efficiency alone should lead to at least a 10% absolute reduction of energy use in the next decade and at least a 1% further absolute reduction in each successive year.
- Expansion of the use of renewables with a minimal impact on the environment: wind and solar are unlimited sources. EEB insists on biomass policies that protect biodiversity and water resources, do not compete unfairly with other priority raw material needs and do not reduce global access to food.
- Phase out nuclear energy use as a limited resource with unsolved waste problems and security, environmental and health risks.
- Reduction of the environmental impact of fossil fuel use, which not only relates to CO<sub>2</sub> emissions, but also to the impacts on ecosystems and public health.

It is crucial that the Presidency leads Member States to adopt the Climate/Energy Package before the end of its term and with the legislative substance necessary to keep temperature rise below 2°C. Failure to adopt the package before the end of 2008 will most likely take the negotiations on this package beyond the 2009 European Parliament elections and possibly into 2010, which would reflect badly on the EU's international leadership on climate change. It would harm the European Union's credibility in general and the timely and successful conclusion of the Bali mandate in particular.

The United Nations Framework Convention on Climate Change (UNFCCC) summit in Bali demonstrated a clear will by India and China to move towards measurable and

verifiable greenhouse gas mitigation efforts in a post-2012 regime. The EU has to reciprocate this movement on its part by implementing a 2020 30% domestic reduction target. Anything below this ambition level will, on the international level, be perceived as the EU backtracking on its leadership and promises.

**EEB calls upon the Presidency to lead the European Council towards the following outcomes:**

With regards to climate policies:

- An effort-sharing agreement amongst Member States that ensures 30% domestic greenhouse gas reduction compared with 1990 for the EU, with all Member States accepting a fair share of the common target. An Emissions Trading Scheme that gives certainty on emission reductions through a top-down EU-wide cap, sending a clear carbon signal by using full auctioning and clear and stringent limits on the use of external credits.
- Adopt an additional quantified commitment to support mitigation and adaptation in developing countries, with finances from the earmarking of revenue from the ETS auctioning.
- Concrete efforts towards a binding post-2012 agreement that ensures that temperature rise will remain below 2 degrees.

And with regards to energy policies:

- An effort-sharing agreement between Member States that guarantees energy production with a minimum of 20% environmentally sound renewable resources by 2020.
- As long as environmentally and socially sound production cannot be guaranteed, abandon the 10% biofuels target for 2020.
- Accelerate energy efficiency as an essential element of EU's energy policy as well as product and building policies.

## **4.2. Carbon Capture and Storage (Ccs)**

EEB insists that even though carbon capture and storage (CCS) can possibly be part of climate policies it should not in any way reduce the attention and efforts on energy efficiency and renewables. Political priority, political attention and public funding should concentrate on promoting the development and up-take of energy efficiency and renewables. CCS research should be paid by the power-sector and other possible users themselves; public funds should be used only for research necessary to determine necessary safety, environmental and monitoring requirements. The actual investments in CCS installations have to be covered by the power-sector, triggered by the price of CO<sub>2</sub> emissions.

EEB agrees it would be best to phase out coal use as much as possible, not only because of its CO<sub>2</sub> emissions, but also because of its other environmental impacts, which could increase along with carbon capture and storage. EU Member States should phase out all subsidies to coal energy as soon as possible, to avoid CCS legitimising increased or prolonged use of coal in the EU, which thereby has the potential to increase hazardous air emissions. The EU should make an effort to prevent this, also by

strengthening the Large Combustion Plants Directive (as now integrated in the Directive on Industrial Emissions).

The Commission proposal is focused on the safety of storage, whereby the quality of the “CO<sub>2</sub>-stream” is one element. It proposes relying on the IPPC process to establish precise requirements. The problem is that the IPPC process of determining Best Available Technology is normally restricted to mature technologies, while capture is still in an experimental phase.

Furthermore, the Commission has proposed rules for competent authorities to follow when considering a license for a storage place. These authorities have to inform the Commission about the outcome of this process and ask for its opinion. However, the opinion of the Commission can be ignored.

Finally, the Commission has proposed a liability regime partly based on the Environmental Liability Directive. The proposal has an important loophole in the sense that liability for the storage manager is time-bound, meaning that after a period of time all responsibility goes to the state. For EEB this is not acceptable as it violates the “polluter pays” principle.

**EEB calls upon the Presidency to ensure that CCS does not lead to adverse impacts or risks, by strengthening the Directive in particular with regards to pre-conditions for human and environmental safety and long-term liability, including by:**

- Setting a ‘fast track’ process whereby information gained from the demonstration phase can be used to develop a Best Available Technology definition for carbon capture by 2016. The Directive should contain a revision clause (we propose by 2015) so that new developments can be taken into account; it should also make explicit that the BREFs have to be followed as minimum requirement for permits.
- Insisting with the Commission on amending the Large Combustion Plants Directive, or its successor, with the explicit objective of reducing the overall emissions from coal fired power plants, including mercury.
- Setting robust minimum criteria for long term safety of storage places. In order to prevent different levels of safety, the Commission’s opinion on draft permits should be made binding for Member States. This opinion should also be accessible to the public and if necessary Member States should be obliged to communicate it to the general public or hold a public consultation. Removing the transfer of financial responsibility for the storage site to competent authorities. To that end, include a requirement that the financial security for the operational period is put into a trust fund to cover the costs of the competent authority for implementing the tasks laid down in Article 18.

### **4.3. Sustainable Consumption and Production**

The Commission’s Sustainable Consumption and Production (SCP) Action Plan is being released after much delay and is now expected for July 2008, in combination with a Sustainable Industrial Policy (SIP) Action Plan. They might come out together as a

'Sustainability Package', an over-optimistic and ostentatious name as it is not likely to contain clear, strong new measures.

The package is meant to provide the Commission's 'vision' on SCP, but as such it simply 'tinkers at the edge' of the issues. It appears to be strong on process, where measures already existed, and does not provide clear objectives beyond 'reducing environmental impact'. Despite signaling further measures to come, no timetable is given.

Anticipated elements are proposals for revisions to existing mechanisms such as the European Ecolabel, the Environmental Management and Audit Scheme (EMAS), and the Ecodesign for Energy-Using-Products Directive (EuP). Stronger links between these mechanisms are meant to provide an integrated approach, creating positive synergies.

Furthermore, the Commission expects to achieve progress with a voluntary approach, including measures to be elaborated in a Green Public Procurement Communication and a 'retailer initiative'. But the retailer focus is weak due to heavy lobbying by the sector against any concise objectives or targets.

EEB is afraid the 'Sustainability Package' will lack ambition and vision, missing important opportunities to place many sustainability issues within a societal context. It is likely to stay on the level of specific messages on climate change or energy efficiency, failing to provide a wider context, linking necessary actions on transport, climate change, aviation and energy efficiency with other issues of consumer concern such as food production and chemicals in products. The package is likely to present the lowest common denominator at a time of increasingly diverging views on what is needed to accelerate changes to our patterns of consumption and production. As such, it offers a weak starting point for changing unsustainable consumption and production patterns.

**EEB calls upon the Presidency to ensure that the Council insists on actions with clear, detailed objectives (particularly linked to the 6th Environmental Action Programme and the EU Sustainable Development Strategy), including activities that influence consumption (including advertising).**

**In particular EEB calls upon the Presidency to guide the Council and work with Parliament to strengthen the Action Plan with:**

- A clear road map for creating sustainable products that currently have significant sustainability impacts (food and drink, transport and housing, in particular) and proposing roles for different actors in helping make the shift to sustainable patterns of consumption.
- The integration of eco-efficiency and sustainable production and consumption into the Lisbon strategy with an overarching objective of achieving an EU Factor 4 increase in energy and resource efficiency by 2030 and Factor 10 by 2050.
- Elaboration of priority environmental objectives to be included in the EuP Directive, linking directly to the 6EAP and Renewed SDS, to be met in product design and production.
- Calls for new policy mechanisms, acting as 'middle layers' between the overarching SDS and 6EAP objectives and the process-based case-by-case measures such as EuP. These include a mechanism on broader Extended Producer Responsibility legislation on environmentally sound products (mirroring or extending the General Product Safety Directive, to address sustainability

aspects of products), and a supporting mechanism requiring companies to provide established minimum product data through a general obligation to manufacturers. Such information should be independently assessed and verified, and provided to the Commission's Product Data Centre.

- The creation of a robust stakeholder process to further develop the action programme, to be created no later than 2010.
- Include actions addressing sustainable consumption, especially those focusing on marketing and advertising.
- Include fiscal mechanisms that drive pricing policies that better reflect the sustainability impacts of a product, especially with regard to resources used.
- Broaden the revision of the Ecodesign for Energy-Using Products Directive proposal beyond the 'energy-relevant products', in particular to consumer products having significant environmental impacts in non-energy areas.
- Strengthen the proposal for revision of the European Ecolabel Regulation, giving clear objectives in reducing environmental and human health impacts.
- Insist on the roadmap on environmentally hazardous subsidies.

#### **4.4. Review of the IPPC Directive**

The Commission proposal for a recast of Directive 96/61/EC on Integrated Pollution Prevention and Control (IPPC) was published on 21 December 2007. The critical role of the recast in filling existing gaps in the current IPPC Directive and the fierce controversy surrounding the proposal demand firm leadership from the Presidency on a number of key issues.

First, in order to protect key safety nets in the IPPC Directive, it is vital for all actors to respect the restraints of the recasting technique. This implies that when developing a Common Position on IPPC, the Presidency must ensure that Council's amendments are restricted to those provisions opened in the Commission's proposal.

The Commission proposal will integrate six sectoral directives under the proposed IPPC recast, including the Directives on Waste Incineration, Large Combustion Plants, Solvent Emissions, and three Directives on Titanium Dioxide. These sectoral directives include mandatory Emission Limit Values (ELVs) that act as a safety net to ensure that relevant installations do not emit above a certain threshold. EEB considers it critical that these ELVs are not eroded but rather that they are tightened to reflect emission levels achievable through the application of Best Available Techniques (BAT).

EEB believes that in order to ensure a level playing field, competent authorities must be legally obliged to refer to the BAT listed in the BAT Reference Documents (BREF) and impose permit conditions that reflect emission limit values associated with the BAT. BAT reflects a dynamic concept and as such the BREFs are reviewed approximately every six years. Permit conditions must also be reviewed as BAT evolves and better environmental performance becomes fully feasible.

IPPC affects 50,000 industrial installations in the EU and was due to be fully implemented by 30 October 2007. However, several Member States have failed to achieve full implementation, with up to 50% of IPPC installations in some Member States operating under permits from preceding legislation. It is critical that the Commission is

supported in its efforts to increase the capacity of competent authorities to deliver IPPC permits in order to address this implementation deficit. France is the country with the second highest number of installations covered under IPPC within the EU-27 and its national authorisation procedure has served as source of inspiration to the current IPPC system. Therefore it is essential that France leads by example and supports the strengthening of the dynamic BAT concept of IPPC striving for continuous improvements of environmental performance for the industrial sector. An early and active involvement from the different Member States aiming at ambitious objectives to prevent pollution from industrial activities can considerably speed up the legislative process, strong impulses from the French Presidency is crucial.

**EEB therefore calls on the Presidency to:**

- Keep the recast of the IPPC Directive water tight: stick with the scope of Commission's proposals for change.
- Maintain existing Emission Limit Values in sectoral directives as a critical safety net and ensure their tightening to reflect emission levels achievable through application of Best Available Techniques (BAT).
- Make using the BAT Reference Documents (BREFs) by local competent authorities obligatory to the permitting process.
- Ensure that eventual derogation from BAT at an installation are strictly exceptional and that justifications are required, with the Commission to provide clear guidance on the parameters for justification;
- Establish BREF review as a trigger for permit review, with a time limit of two years in order to secure continuous improvement in environmental performance;
- Ensure that both permit applications and the final permits (including any justifications for derogation from BAT) are permanently available online on Member State websites dedicated to IPPC;
- Reject an emissions trading scheme for the local pollutants sulphur dioxide and nitrogen oxides
- Support the Commission's IPPC Implementation Action Plan, under which competent authorities from the different Member States exchange best practice on IPPC permitting procedures.

#### **4.5. Globally Harmonised System of Classification and Labelling of Chemicals**

In June 2007, the European Commission adopted a new proposal for a Regulation on the Classification, Labelling and Packaging of Substances and Mixtures (CLP-Regulation) which, after a transitional period, will replace certain provisions of current directives. The intention of the proposal was to incorporate the classification criteria and labelling rules agreed at UN level in December 2002, the so-called Globally Harmonised System of Classification and Labelling of Chemicals (GHS). It introduces new classification criteria, symbols for hazards and labelling requirements for manufacturers of hazardous chemicals.

EEB considers it essential that the new legislation does not backtrack on previous legislation but delivers a high level of protection for EU citizens from chemical substances.

The European Parliament's preparations are not very promising. The first reading opinion missed the chance to considerably improve the weak Commission provisions that were not compatible with the need for more transparency for consumers. In this light it is not well advised to seek a first reading agreement. Instead, the Environment Council should seek to improve key provisions that would aim to deliver high level protection and transparency for EU citizens regarding chemical substances.

**EEB therefore calls on the Presidency to:**

- Include Category 5, acute oral toxicity, of the GHS in the criteria for hazardous substances and mixtures;
- Add labelling requirements for PBT/vPvB (Persistent, Bioaccumulative and Toxic/very Persistent, very Bioaccumulative substances) in order to ensure the consistency and coherence of European chemicals;
- Strengthen the EU-PBT/vPvB risk reduction strategy;
- Ensure availability of uniform and appropriate information corresponding to the level of danger of these SVHCs (substances of very high concern);
- Add labelling requirements for endocrine disruptors;
- Reject any threshold for labelling or for notification to Agency. Requirements for classification shall be based on the intrinsic properties of the substance and the resulting danger to human health and the environment;
- Deliver full information to the user. Under no circumstances should labels providing information on hazardous properties and safe use of chemicals be replaced by website addresses or free-phone numbers, as suggested by Parliament.
- Labels should be, as suggested in Parliament's first reading opinion, required for both outer packaging and inner packs of single dose packs, since the single dose pack may easily become separated from the original outer packaging..
- Delete exemptions. It is not acceptable that exemptions from labelling are granted for "small of otherwise unsuitable packaging" for particular categories of substances.
- Suppliers must provide full disclosure of the chemical identify of each substance or mixture and should not be able to withhold information on the basis of confidentiality. The Parliament proposed some improvement in this regard, also aiming to prevent misleading information concerning false health or environmental effects.

## **4.6. Climate and Road Transport**

### **4.6.1. CO<sub>2</sub> Emissions from Passenger Cars**

Between 1990 and 2005, EU CO<sub>2</sub> emissions from transport increased by 32%, or 2% per year. This made the share of transport in the EU's CO<sub>2</sub> emissions rise from 20.5 to 27.4%. In the future, transport emissions are projected to continue increasing if no further actions are implemented. This means that the transport sector will continue to

undermine EU climate policy unless it is made much more efficient. More fuel efficient cars would benefit both the climate and the consumers. In times of record oil prices and energy security concerns fuel efficient cars, rather than more bad biofuels, are the sustainable and responsible answer to these concerns.

In December 2007, the Commission adopted a draft Regulation intended to increase the energy efficiency of passenger cars, expressed in CO<sup>2</sup> emissions per km. This proposal was deemed necessary as it became clear that the auto industry would miss its 1998 voluntary agreement to reduce CO<sup>2</sup> emissions from new cars to an average of 140 g/km by 2008 as an interim step toward reaching a 120 g/km average by 2012. The Commission chose to water down a long agreed target of 120 g CO<sup>2</sup>/km and proposed an objective of 130 g CO<sup>2</sup>/km to be reached by technical changes to the car fleet. The remaining ten grams were planned for reduction through other measures in the context of the so-called “integrated approach”, through separate legislation on more fuel-efficient tyres and biofuels for example.

The discussions in Council have not produced much substance so far. The only slightly positive development being is that there seems to be support for some kind of long-term target for the year 2020. On the other hand, the French have tried to come to a bilateral agreement with the Germans, the two countries that most strongly opposed the Commission proposal in the first place. This Franco-German deal would be devastating for the environment as it aims among other things to postpone the entry into force of the regulation through a “phase-in” approach, which would mean a postponement of feasible emission reductions that could already be made using existing technology.

Another proposal brought into the debate by the German government (and invented by the German car manufacturers) is the concept of letting “eco innovations” count towards the target. Features like solar-powered sun roofs would be allowed to contribute a certain amount of grams towards each carmaker’s CO<sup>2</sup> target. While such innovations are a good thing in principle, the targets are based on the fuel efficiency new cars achieve under an official testing procedure that does not currently account for them. Therefore, including such improvements in non-engine technology in the targets currently under discussion is a way of cheating the system and weakening the original target.

The EEB strongly criticises the French-German deal and calls upon the other Member States to reject these proposals during Council discussions. The EEB calls upon the French government to take seriously its pledge to make the fight against climate change a priority of its Presidency and distance itself from proposals such as the ones mentioned above. They would weaken the effectiveness of one of the most important measures to fight against climate change.

**EEB calls upon the Presidency to:**

- Limit average CO<sup>2</sup>/km emissions of passenger cars to 120 g/km and set a target of 80 g/km for 2020.
- Include stringent financial sanctions of 150 € for each gram of CO<sup>2</sup> above the limit for each car above the limits.
- Ensure that this goal is not based on the “integrated approach,” but is instead reached by technical means only.

- Refuse differentiation on the basis of car weight of cars, for example by basing it on the car's 'footprint' which would ensure that higher emitting cars reduce more,
- Refuse to count other measures towards the target (so called "eco-innovations") as they cannot be measured under current testing procedures, which would mean that less would be done to improve engines and would represent an effective weakening of the proposed target.

#### 4.6.2. Fuel Quality Directive

On 31 January 2007, the Commission published a draft directive to revise an existing directive on fuel quality. It has interesting elements, such as a 1% per year steady reduction of greenhouse gas emissions from fuel, based on a life-cycle analysis. But it is crucial that the fuel reduction obligation includes certain criteria and elements as part of the life cycle analysis in order to avoid unintended negative environmental consequences.

The fuel quality directive should not only be worked upon from the perspective of climate change. Biofuels production in particular can have serious environmental and social impacts. The draft directive also includes important proposals with regards to the reduction of health impacts related to transport fuels, which the EEB would like to see adopted.

The European Parliament's Environment Committee produced a positive position, which was not sent to the Plenary as attempts were made to reach a first-reading agreement with Council. The Slovenian presidency made a lot of effort to find a possible first reading agreement by June, which in the end was delayed because discussions on the sustainability criteria for biofuels took more time than expected.

Although the EEB strongly supports the requirements of the introduced Article 7a in the Directive to monitor and reduce GHG emissions from transport fuels, we do believe that the importance of developing effective sustainability criteria is such that it is better to take some more time to do it right than to rush it. Most critically, the ad hoc working group should continue its work to improve the sustainability standards proposed by the Commission and include the indirect land use change impacts as the most critical factor.

#### **EEB calls on the Presidency to:**

- Take the discussions about sustainability safeguards forward in the context of the Fuel Quality Directive to ensure avoiding negative impacts from biofuels, especially considering the following elements:
  - A minimum performance standard of 60% GHG-saving for biofuels in comparison to fossil fuels.
  - Clear provisions for life cycle analysis, including direct and indirect land use changes and other environmental and social impacts.
  - Sustainability criteria dealing with impacts on water, soil and biodiversity resources as well as social criteria.
  - A review mechanism to assess the impacts that the end target will have on the sustainability of biofuel production.
- Scrap the vapour pressure waiver for fuels containing bio ethanol.

- Call for bringing the 10 ppm sulphur content requirement of inland waterway gas-oil forward from 2011 to 2009.

#### 4.7. Air Quality

Across Europe, exposure of the population and ecosystems to air pollution has been an ongoing health and environmental problem. Air pollution exceeds standards set by the EU and by the World Health Organization (WHO) in numerous places with urban/suburban areas being predominantly impacted (although standards for particulate matter [PM<sub>10</sub>] and ozone are also exceeded in some rural areas). Long-term exposure to air pollution – especially to particulate matter – increases mortality and the risk of developing chronic respiratory illnesses and cancer. At current concentrations, air pollution is responsible for 370,000 premature deaths per year and well over 100,000 serious hospital admissions for acute heart and respiratory problems.

Emissions of all air pollutants fell substantially during the period 1990–2004 in the EU-27; however, ambient concentrations of particulate matter and ozone in the air have not shown any improvement since 1997. This might be partially explained with meteorological variability and increasingly long distance conveyance of pollutants, but is mostly due to air pollution from transport and industry.

In this regard, EEB draws the attention of the Presidency to three important regulations.

##### 4.7.1. Euro Vi – Regulation on Engine Emissions from Buses and Heavy Duty Vehicles

A new proposal to reduce air pollution from lorries and buses was made public in late December 2007. This regulation, known as EURO VI, will set emissions standards for heavy-duty vehicles regarding particulate matter, nitrogen oxides, hydrocarbons, carbon monoxide and ammonia. The standards are particularly important for reducing air pollution in hotspots (along busy streets) and in urban areas, which would also help cities and Member States meet air quality limit values set in the Air Quality Directive.

**EEB calls on the Presidency to ensure that the EURO-VI proposal for lorries and buses is not diluted by Council. We particularly insist that the Presidency:**

- Maintains that limit values should already enter into force in 2011 since cities need the air quality improvements as soon as possible.
- Demands an introduction of a particle number standard at the same time as EURO VI mass-based limit value for small particles, applying the state-of-the-art control technologies for fine dust emissions control.
- Calls on the Commission to develop and adopt robust enforcement measures to ensure that new vehicles manufactured under Euro VI meet emission standards throughout their lifetime under the full range of normal operating conditions.

#### 4.7.2. Emissions from Ships in The International Maritime Organisation (Imo)

Despite their relatively 'clean' image, sea-going ships cause a lot of air pollution and their emissions are not sufficiently regulated. Emissions of sulphur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) from international shipping in European seas are expected to increase by 40-50 % up to 2020 as compared to 2000. Meanwhile emissions from land-based polluters are expected to drop as a result of air pollution policies. Consequently, by 2020 emissions from international shipping around and within Europe will have surpassed the total amount from all land-based sources in the 27 Member States. Such a scenario is expected even after the introduction of lower sulphur shipping fuels used in the North Sea, Baltic Sea and the English Channel as required by the IMO and EU Directive 2005/33/EC on sulphur content of marine fuels.

Air emissions from ships cause and contribute to severe onshore human health and environmental damage. This includes premature death, heart and lung problems, including heart attacks and lung cancer, as well as atherosclerosis, strokes and permanent respiratory damage. Smokestack emissions from international shipping kill up to 64,000 people a year worldwide, including 27,000 in Europe, at an annual cost to society of more than 200 billion euros, according to a recent scientific study.<sup>1</sup> The emissions also contribute to acid rain and eutrophication of coastal and inland areas, impacts on biodiversity in sensitive forest and lake ecosystems and damage to crops.

Although the European Union has long considered shipping as a matter for the International Maritime Organisation to regulate, the Commission has recently been investigating the economic, legal, environmental, and practical implications of co-ordinated EU action for reducing polluting air emissions from ships. This initiative was partly spurred by the EU directive on national emission ceilings requiring the Commission to present a programme of action for reducing emissions from international maritime traffic. A directive regulating the sulphur content of marine fuels was adopted in 2005, largely confirming the global Annex VI standards, part of the MARPOL convention regulating air pollution from ships, but also setting a 1.5% limit for all passenger ferries in the EU and a 0.1% limit for vessels at berth. It will be reviewed in 2008. There are thus far no EU standards for NO<sub>x</sub> or PM emissions from sea-going ships although specific proposals for reduction of emissions from shipping are urgently needed if general negative air quality impacts are to be reduced.

**Regarding global action under the International Maritime Organisation, EEB calls on the Presidency to:**

- Play an active role in the adoption and implementation of the revised MARPOL Annex VI in line with the agreement reached by the Marine Environment Protection Committee (MEPC) in April 2008.
- Make every effort to markedly strengthen the weak emission standards for NO<sub>x</sub> in Annex VI, both for existing and new ships.

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<sup>1</sup> Corbett, J.J., Winebrake, J.J., Green, E.H., Kasibhatla, P., Eyring, V., and Lauer, A., **Mortality from Ship Emissions: A Global Assessment**, *Environmental Sci. Technol*, American Chemical Society, 42(24), p. 8512–8518, Dec 15, 2007.  
<http://pubs.acs.org/cgi-bin/sample.cgi/esthag/asap/pdf/es071686z.pdf>

To speed up the introduction of low-sulphur fuel and cleaner ships, regulation should be complemented by market-based instruments that apply fair and efficient Community pricing principles to the marine sector.

**EEB therefore calls upon the Presidency to:**

- Actively participate in expanding the Emission Control Areas (ECAs) to include all European sea areas. Currently only the Baltic Sea and the North Sea have ECA status. There is an urgent need for the north-eastern Atlantic, the Mediterranean and the Black Sea to also become ECAs.
- Ensure reductions of SO<sub>2</sub> and PM by insisting the revision of directive 2005/33 on the sulphur content of fuels start in 2008.
- Demand cuts in NO<sub>x</sub> emissions by establishing mandatory emission standards for ships entering EU ports.
- Suggest the adoption of an EU directive to regulate the quality of marine fuels.

#### 4.7.3. National Emissions Ceilings (NECs)

The National Emissions Ceilings Directive (NECD), adopted in 2001, defines the maximum national emissions for four major air pollutants – sulphur dioxide, nitrogen oxides, volatile organic compounds and ammonia. Together with other air quality legislation NECD aims to halt the detrimental effects on human health and the ecosystems from polluted air, in line with the objectives of the 6<sup>th</sup> Environmental Action Program. The Directive will undergo revision in 2008 to set new interim air quality targets and related new national emissions ceilings to be achieved by Member States by 2020.

Data reported by 25 Member States shows that most have a realistic chance of meeting overall emission ceilings by 2010 with the exception of nitrogen oxides where the combined EU target may be exceeded by about 8 %. Nitrogen oxides contribute to eutrophication and acidification of ecosystems throughout Europe and are precursors for ozone and ultra fine particle formation, which are harmful to human health. Failing the nitrogen oxides emission ceiling in 2010 by 8 % is particularly worrying considering the results of future emission scenarios under current EU legislation. These show widespread exceedance of critical loads of eutrophication and acidification as well as serious health damage due to fine particles and ozone exposure in 2020.

**In light of the revision of the NECD EEB calls upon the Presidency to:**

- Insist that the reviewed proposal should be adopted by the European Commission no later than autumn 2008. The proposal has already been significantly delayed (it should have been presented at the same time as the Thematic Strategy on Air Pollution in September 2005). Moreover member states and industry need time for implementation, so any (further) delay is potentially detrimental for good and cost-effective implementation of the directive.
- Demand new stricter ceilings since current NECs are not sufficient even to meet interim (environmental and health) objectives for 2010.
- Require additional measures/legislation under NECD because both the current environmental & health situation, as well the anticipated situation in 2010 and 2020 under current legislation, is far from sufficient.

#### **4.8. Fuel Efficient and Quiet Tyres**

Tyres are all too often overlooked, but they are the dominant source of road traffic noise and determine 15-20% of a vehicle's fuel consumption and therefore CO<sub>2</sub> emissions. The Commission proposal for a regulation on advanced vehicle safety features and tyres of 23 May 2008 offers a key opportunity to set effective standards for rolling resistance (which determines fuel efficiency) and noise emissions.

Traffic noise disturbs the lives of millions of people in Europe. It is estimated that 44% of Europeans (over 210 million people) are regularly exposed to noise levels considered to have potentially dangerous health effects. Each year 245,000 people in the EU suffer cardiovascular diseases provoked by traffic noise. The European Environment Agency's recent 4<sup>th</sup> Assessment of Europe's Environment also identifies the health impacts of environmental noise as being underestimated and requiring further attention.

Road traffic is the most widespread source of environmental noise and tyre rolling noise dominates the noise emissions from motor vehicles. Despite vehicle noise standards in place since 1970, vehicles are getting noisier. Combined with the growth of road traffic, the number of people whose health and quality of life suffers as a result of noise will continue to rise dramatically unless effective measures are taken to make vehicles quieter.

Additionally, there are currently no standards for tyre rolling resistance in Europe, although consumers are clearly increasingly interested in energy efficient tyres. Technology that is already available on the European market (best practice compared to current market average) would permit a 5% saving on fuel bills and 5% reduction of CO<sub>2</sub> emissions from road transport.

**EEB encourages the Presidency to seek a fast agreement on this proposal, in light of the substantial potential of tyres to contribute to fuel efficiency of road transport and the urgent need to tackle transport noise to protect citizens' health and quality of life.**

**With regard to reducing noise from tyres, EEB asks the Presidency to build on the support voiced in the Environment Council in October 2007.**

**EEB calls upon the Presidency to:**

- Clarify that this regulation will apply to all tyres used on road-going motor vehicles, including SUVs and vans.
- Demand tougher rolling resistance targets than those proposed by the Commission, in light of EU climate targets and rising fuel prices. Rolling resistance limit values of 10kg/t for car and light van tyres are realistic and feasible with current technology.
- Support the Commission proposal for rolling noise limit values for car tyres. The regulation should follow the recommendations of the FEHRL (Forum of European National Highway Research Laboratories) report for the Commission to reduce

- tyre rolling noise limit values by up to 6.5 dB(A)<sup>2</sup> which would make road traffic 2-3 dB(A) quieter.;
- Tighten the rolling noise limit values for van and truck tyres, at least in line with the FEHRL recommendations;
  - Scrap unnecessary allowances and rounding in the rolling noise measurement procedure.
  - Demand the elaboration and adoption of a quality label for tyres to inform consumers, including rolling resistance / fuel efficiency, noise emissions and safety.

#### **4.9. Biodiversity**

Under the French Presidency there are few biodiversity related issues on the agenda. Nevertheless there are some important opportunities for Presidency initiatives. Most critically, as 2010 rapidly approaches, representing the date by which the EU has committed to halt the decline of biodiversity, discussions at both EU and international levels should start to help define a strengthened biodiversity policy framework including a new and more ambitious target.

Although all efforts should continue to be made to meet the 2010 target it is becoming increasingly clear that the EU will not succeed. At the same time the importance of protecting biodiversity is becoming increasingly understood, for example through the ongoing "TEEB study" (The Economics of Ecosystems and Biodiversity). This increase in awareness among business and policy makers should help prepare the ground for a more ambitious, improved and strengthened biodiversity policy framework after 2010 which should aim at restoring ecosystems and biodiversity where possible.

Such a new policy approach will also fit in well with EU efforts of prepare for the impacts of climate change. The Commission is expected to bring out a White Paper on adaptation to climate change including principles and proposals for policy action. The proposal is expected to be released before the December Environment Council and the presidency should put this proposal high on the Council agenda and promote the protection of ecosystems and its components of water, soil and biodiversity as the foundation for a successful and cost effective adaptation strategy. The use of existing EU legal instruments such as the Natura 2000 network and the Water Framework Directive as well as the adoption of new instruments for the protection of soil should be given special attention.

#### **EEB therefore calls on the French Presidency to:**

- Initiate discussions at the EU and International level about how to define a strengthened biodiversity policy framework including a new and more ambitious target.
- Promote the protection of ecosystems and the implementation of legal instruments such as the Water Framework Directive and Natura 2000 network as the foundation for an EU adaptation strategy.

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<sup>2</sup> The intensity (loudness) of sound is measured in Decibels (dB). With dB(A), the (A) denotes that the scale is adapted for the human hearing range.

#### **4.10. Reduce Emissions, Supply and Demand for Mercury**

Mercury and its compounds are highly toxic, damage the central nervous system and are particularly harmful to foetal development. Mercury builds up in humans and animals and becomes concentrated through the food chain, especially in certain fish. It 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 EU has so far played an important role, pressing for global legally-binding solutions to achieve adequate control and reduction of mercury use, supply and demand.

At the EU level, discussions continue on legislative proposals to implement the Mercury Strategy adopted in 2005. The proposed regulation for an EU mercury export ban and the storage of surplus mercury (mainly from decommissioned chlor-alkali plants) has been informally agreed between European Parliament and Council, awaiting official approval by the Council. This and other developments on reducing the use of mercury in Europe as well as the supply to the global market, strengthens the position of the EU vis a vis the international debate.

At an international level, mercury has been on the United Nations Environment Programme's agenda since 2001 in the context of discussing global measures to reduce mercury's health and environmental impacts. EEB, along with a range of organisations worldwide, advocates reduction with a view to eliminating supply, demand and emissions.

The 24<sup>th</sup> UNEP Governing Council decided that a working group on mercury would be set up to explore "enhanced voluntary options as well as legally-binding regulations for long-term international action" to reduce mercury's threat to health and the environment. The working group met in November 2007 in Bangkok and decided to focus on exploring the possibility of adding a new protocol on mercury to the Stockholm convention, starting a new free-standing treaty and/or enhanced voluntary approaches. The working group sent the report from this meeting to the Governing Council's 10<sup>th</sup> Special Session in February 2008, which was acknowledged by governments without further discussion or changes. The working group will meet for the second and last time in October 2008 in Nairobi in view of developing a final set of recommendations to the 25<sup>th</sup> UNEP Governing Council in February 2009.

EEB expects the EU to take the lead in this process, reflecting concern over the harm mercury does and the potential for making it redundant.

##### **At the international level (UNEP) EEB urges the Presidency to:**

- Continue EU and Member States' positive, pro-active role at 2<sup>nd</sup> UNEP Ad Hoc Open Ended Working Group on Mercury (October 2008, Nairobi), to develop an international legal instrument to address mercury and in parallel press for:
  - Establishing a global mercury-use reduction goal of 70% by 2017 by banning mercury-use in electronics, button cell batteries, thermometers and other non-electronic measuring equipment.
  - Phasing out mercury-cell chlor-alkali processes and manage mercury from defunct chlor-alkali facilities.

- Developing a roadmap for increased use of mercury-free technologies in small-scale and artisanal gold mining, including establishment of a sector-specific demand reduction goal of 50% by 2017 as recommended by UNIDO's Global Mercury Project, which can be achieved largely by eliminating mercury-use in whole-ore processing.
- Ensuring mercury-reduction approaches/technologies are key components in existing artisanal and small scale gold mining development projects.
- Reducing the supply of mercury by halting primary mining, except where mercury is produced as a by-product from other ore processing.
- Restricting mercury exports from developed nations.
- Providing new and additional financial resources from developed nations to support these activities in developing nations.

#### **4.11. Framework Directive on Soil Protection**

At the last Environment Council under the Portuguese presidency, a last minute blocking minority emerged to stall Council negotiations on the Commission's proposal for a Soil Framework Directive. France has already indicated its willingness to restart the negotiations. However, France has a bigger responsibility than a normal presidency as it is also one of the 5 countries forming the blocking minority. More importantly, the four other countries (AT, NL, DE and UK) have all stated they will not agree to a Directive in any shape or form, whereas France has always been in favour of a Directive. This means that the French Presidency should not only restart the negotiations but also ensure that they will be successful. Failure to reach an agreement by December 2008 would be the full responsibility of the French presidency, thereby raising serious questions about its ability to be a leader on environmental protection.

The principle objection of France is that Member States should not be required to decontaminate soils in a systematic way but rather do it in a more haphazard way, as sites are being prepared for redevelopment. The objection is slightly peculiar as the Commission's proposal leaves plenty of room for member states to determine themselves how, how fast and how well they want to decontaminate sites. It should in any case not form a legitimate reason not to come to an agreement by December.

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

- Not only restart the negotiations on the Soil Framework Directive but to ensure that a common position will be reached in the December Council.

#### **4.12. Relaunch the Access to Justice Directive**

In October 2003, the European Commission published a draft Directive on Access to Justice. This Directive sets minimum standards for access to justice in environmental matters. It intended to implement the 'third pillar' of the Aarhus Convention in EU Member States, which would help improve opportunities for the public and environmental citizens' organisations to insist on respect for

environmental law. The Environment Council thus far has not started to discuss the proposal, due to resistance of a number of Member States that do not view this issue as an EU responsibility.

EEB welcomed the proposal, but voiced a number of specific concerns, including:

- The proposal gives too much leeway to national authorities on how to define the criteria for cases against private entities, which could conflict with the EU objective of creating level playing fields across the EU for economic operators;
- The definition of 'public authority' is incomplete in comparison with the Aarhus Convention. This is important given the increasing privatisation and outsourcing of functions previously carried out by public authorities;
- The draft is too limiting about the natural and legal persons who can have legal standing. The Commission leaves scope for restrictions that are not in agreement with the spirit of the Aarhus Convention;
- The Directive should state explicitly that it sets minimum requirements and that no Member States should use the Directive as a reason to reduce existing access to justice for members of the public in environmental matters.

In April 2004, the European Parliament came up with a set of amendments to the draft Directive which went in the right direction, bringing it more in line with the provisions of the Aarhus Convention. But the Council never took up work on a Common Position. Several governments considered the Directive unnecessary.

In 2006, the Commission launched a study of the practices on access to justice in environmental matters in the (then) 25 Member States. The results show a clear deficit in at least 15 of the 25 Member States (with only Denmark fulfilling the expectations laid down in the Aarhus Convention.) EEB did a survey on implementation of the Aarhus Convention in 20 Member States. It included a question to environmental organisations on whether an EU Directive on Access to Justice is needed. The answer was clearly: Yes.

These two surveys confirm EEB's conviction that adoption of this Directive is important to set minimum standards for the implementation of the right to access to justice in environmental matters as the Aarhus Convention requires.

**Therefore, EEB calls on the Presidency to:**

- Finally launch negotiations on this Directive. It should lead the Council to accept the amendments made by Parliament bringing the Directive in line with the Aarhus Convention and making clear that the Directive establishes a minimum framework for access to justice. The Council should impose no requirements for 'qualified entities' which would introduce new barriers to access to justice for citizens and their organisations.

For the Commission funded study, see:

[http://ec.europa.eu/environment/aarhus/study\\_access.htm](http://ec.europa.eu/environment/aarhus/study_access.htm)

For the EEB survey, see:

<http://www.eeb.org/activities/transparency/AARHUS-FINAL-VERSION-WEBSITE-12-07.pdf>

See also: EEB and Birdlife International briefing on the Directive on Access to Justice in environmental matters – "Schoerling" report (27 January 2004):

<http://www.eeb.org/activities/transparency/BL-EEB-briefing-AtoJ-Directive-jan27-2004.pdf>

EEB's input for Environmental Council discussions on "the Aarhus Package" (22 July 2004): <http://www.eeb.org/activities/transparency/EnvMinisters-Aarhusmemo-22072004.pdf>

#### **4.13. Review of The Authorisation Procedure For GMOs**

On 5 June 2008, the Environment Council supported a French proposal to overhaul the EU authorisation process for GMOs. The Council agreed in particular that the risk assessment procedures within the GMO evaluation and authorisation system need to be improved.

The EEB welcomes this Council decision pointing out the need for additional transparency and democracy, in addition to the improvement of the European Food Safety Authority's risk assessment performance.

Under the current system EEB notes serious flaws with regards to transparency and democracy. Namely, GMOs are only evaluated by unaccountable scientific committees on the basis of the applicant company's own data. Most of this data is classified as "business confidential information", thus preventing the public and independent scientists from scrutinising the risk evaluation process. All data related to risk assessment should be systematically and without delay made accessible to the public. Article 25 (4) of Directive 2001/18/EC on the deliberate release of GMOs indicates that "in no case" should the information related to "environmental risk assessment" be kept confidential, while Article 21 (1) states that "verifiable justification" must be given for the documents for which the applicant seeks confidentiality. Democracy in the EU has been undermined by the Commission several times when taking a pro-GMO decision although a majority, albeit not a blocking majority, of Member States are against them.

The EU has a comprehensive legislative framework to protect consumers and the environment. A key aspect is the legal requirement to consider the long-term effects of a particular food and probable combination effects, which is particularly relevant for new technologies such as genetic modification. The legal obligation can be found in article 14.4 of EU Regulation 178/2002 on General Food Safety, which is often omitted particularly when it comes to the European Food Safety Authority (EFSA)'s opinions on GM products. In addition other legislation such as Directive 2001/18 also call for the assessment of long term environmental effects of GMOs. The EFSA has a legal requirement to address differences in scientific opinions and sometimes substantial differences can be found between Member States and EFSA opinions. EFSA is not, however, responding to this requirement properly in trying to seek a resolution or preparing a joint, public document clarifying the contentious scientific issues and identifying the relevant uncertainties in the data.

EFSA is also not systematically pointing out scientific uncertainties in its opinions, nor excluding systematically experts from GMO panels having a conflict of interest.

**Against this background, EEB calls upon the French Presidency to work for clear decisions to ensure the EFSA respects its legal requirements and the role of national scientific authorities is recognised. In addition EEB calls for the following actions:**

- A new comprehensive, coherent and mandatory regime should be put in place for the risk assessment of GMOs. This regime should address the quality and amount of data to be presented by the applicant company, as well as the way these data were assessed. The material produced by the company has to undergo a much more comprehensive quality check before being used in EFSA assessments.
- A rigorous, comprehensive and mandatory testing regime should also be set up for immunological testing as well as toxicity and anti-nutrition tests (for example testing regimes for the toxicity of pesticides are precisely defined in law). In addition there is a need for a broad ethical debate on the use of laboratory animals in this context.
- The opinions presented by the GMO panel of EFSA have to reflect all open questions and uncertainties without prejudice.
- The Precautionary Principle has to be applied in a way that any uncertainties regarding safety are seen as an obligation for further investigation and no positive opinion can be filed by EFSA.
- Monitoring and general surveillance must take into account all levels of complexity, interactions and possible effects regarding human health and environment.
- Full and free access to data must be provided.

## EUROPEAN ENVIRONMENTAL BUREAU

### PUBLICATIONS 2008

- 2008/001 Memorandum to the Slovenian EU Presidency
- 2008/002 How recycling can fight climate change (leaflet)
- 2008/003 In the queue for clean air: Interim evaluation of implementation of the National Emissions Ceilings (NEC) Directive
- 2008/004 EEB Annual Conference report: the role of the European Parliament in environmental policy making and control
- 2008/005 Memorandum to the French EU Presidency (EN/FR)

All other EEB publications prior to 2008 are available on our website

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