

THE FUTURE OF EU ENVIRONMENTAL POLICY

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LEGAL STATUS/PROCEDURE: CO-DECISION

STATUS: UNCERTAIN, COMMISSION TO PRODUCE DRAFT IN 2010

FORMER EP RAPPORTEUR: RIITTA MYLLER (FINLAND, NO LONGER IN EP)

EEB PARLIAMENTARY BRIEFING –
TOWARDS A NEW ENVIRONMENTAL
ACTION PROGRAMME



BACKGROUND

Environmental Action Programmes (EAPs) serve as general guidelines for the Commission to take initiatives. The 6th EAP¹ was the first EAP that had legal status having been agreed between the Commission, the European Parliament and the Council of Ministers (in a co-decision procedure) in 2002 and runs until July 2012.

The European Parliament (EP), under the leadership of the Environment Committee, played an important role in strengthening the 6th EAP, and in 2008 concluded on a critical assessment of progress made with the 6th EAP². The EP then warned that the EU was not going to achieve its goal of halting the decline of biodiversity by 2010, nor achieve objectives on reducing natural resource use and waste. The EP also warned that the health protection objectives had been compromised in the REACH legislation on chemicals.

The EP called for a “wider use of market based instruments, taking the environmental impact of all production and distribution processes and consumption patterns into consideration”. Furthermore, it emphasised the need for the EU budget authorities to ensure the Commission will have all the necessary financial and human resources to ensure that the “most efficient monitoring of implementation and enforcement of existing legislation is carried out in all Member States.”

PROCESS

From 2012, the EU should have a new Environmental Action Programme. Work inside the Commission needs to start and finish in 2010 in order to leave sufficient time for the co-decision making process with Parliament and Council. However, the Commission has not really started with such a Programme yet, and in fact a political decision still needs to be taken on whether the 6th EAP will have a successor in the form of a Programme at all.

The European Environmental Bureau (EEB) calls upon the Environment Committee to ensure the new Commission produce a draft 7th EAP no later than end of 2010. The Parliamentary Hearing with the candidate Environment Commissioner is an excellent moment to get such a commitment.

¹ <http://ec.europa.eu/environment/newprg/index.htm>

² P6_TA(2008)0122 European Parliament resolution of the 10 April 2008 on the mid-term review of the Sixth Community Environment

WHAT NEEDS TO BE DONE BY THE EUROPEAN PARLIAMENT?

For the European Parliament, a co-decision on the 7th EAP means that it can have a real role in setting the direction of EU environment policy, integration of environmental objectives in other policies, and in the important debate on subsidiarity versus the need for a strong common response towards the increasing degradation and undermining of the natural resource base of both the EU and global societies.

The EEB calls for a 7th Environmental Action Programme with:

- A high profile in the European Union with the mechanisms and ambition levels required to dramatically reduce the EU's footprint in the coming decade, with the aim to return as quickly as possible within nature's carrying capacity.
- The principles of prevention, precaution, polluter pays and substitution at the centre.
- Clear targets and timetables for reductions of specific pressures on the environment as well as all major forms of pollution by using a strong emphasis on integration of environmental objectives and requirements in all of the EU's sectoral policies.
- A renewed focus on regulation in combination with market instruments and job creation/skilling.
- A new attempt to achieve a green economy, with a strong focus on environmental fiscal reform throughout the EU.
- A critical attitude regarding framework legislation towards the devolution of EU environmental law back to the national/sub-national levels.
- A strong link between the programme and infrastructures to deliver it, including the use of EU-funding.

The EEB has been involved in discussions on the formulation and implementation Environmental Action Programmes since the early 1970's. You can find an EEB analysis of the trends in such programmes since 1972 in EEB's Environmental Policy Handbook, and further contributions on our website.

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PREPARING A NEW BIODIVERSITY POLICY FRAMEWORK POST 2010

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LEGAL STATUS/PROCEDURE: OWN INITIATIVE

STATUS: COMMISSION REPORTS PUBLISHED LATE 2008, EARLY 2009, NEW PROPOSALS IN EARLY 2010

EEB PARLIAMENTARY BRIEFING -
BIODIVERSITY



INTRODUCTION

Biodiversity is of intrinsic value and should be maintained for its own sake as well as for its life supporting functions. Characteristic biodiversity is a vital component of well functioning ecosystems and increases their resilience, acting as a climate buffer and a carbon sink, which underpins ecological security. It is a precondition for global economic prosperity and long-term human wellbeing.

In 2001, EU Heads of State committed to halt the loss of biodiversity by 2010. In 2006, the European Commission published a Biodiversity Action Plan (BAP) with detailed actions to be taken to meet the 2010 target. A Mid Term Review (MTR) of the BAP in 2008, published in a Commission Biodiversity Communication, concluded that the 2010 biodiversity target is unlikely to be met. The second implementation report under the Habitats Directive, published in a Commission Communication in July 2009, found that only a third of Europe's most important species and habitats are in a 'favourable status'.

PROCESS

Mainly due to the European Parliament (EP) elections and priority given to the Climate and Energy Package, the EP has not formally reacted to both the BAP MTR, nor to the Habitats Directive's implementation report. The European Commission is now starting to develop proposals for a new biodiversity target post 2010 and an underpinning policy framework. A proposal for a new target is to be published early 2010 and a new policy framework towards the end of 2010.

WHAT NEEDS TO BE DONE?

The EEB calls on the European Parliament to produce an own-initiative report to react to the Communication on the BAP MTR and the Habitats Directive so that it can still influence the proposals the Commission is preparing. A second own-initiative reaction will be necessary for the Commission's proposal on new biodiversity targets in Spring 2010.

The EEB calls on the European Parliament to produce a biodiversity rescue plan consisting of:

- **Better targets:** A new target for 2020 to not only halt the loss of biodiversity but to have achieved a reversal in trends, supported by measurable sub-targets, a baseline and increased investments into monitoring.
- **Increased investment into natural capital:** An identification of the levels of investments needed for the achievement of the new biodiversity targets and subsequently making the necessary allocations within the EU budget.
- **Green infrastructure:** Construct a network that will both reconnect wildlife and its habitats and deliver important ecosystem services through a significantly improved implementation of the Habitats, Birds and Water Framework Directive.
- **Reform:** A biodiversity rescue plan should provide a context and direction for reform processes that are going to take place in key policy areas such as the Common Agriculture Policy, the Common Fisheries Policy and Cohesion policies.
- **Completing the legal framework:** A number of new policy instruments need to be developed, most importantly a Soil Directive, legislation for Invasive Alien Species, on Environmental Inspections and a Biowaste Directive.

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DEVELOPING SUSTAINABILITY STANDARDS FOR BIO-ENERGY

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LEGAL STATUS/PROCEDURE: CO-DECISION

STATUS: COMMISSION EXPECTED TO PUBLISH PROPOSAL BY DECEMBER 2009

FORMER EP RAPPORTEUR: CLAUDE TURMES (LUXEMBOURG, GREEN GROUP)

EEB PARLIAMENTARY BRIEFING –
BIO-ENERGY



BACKGROUND

In December 2008, the European Parliament agreed a new Renewable Energy Directive which sets a target of 20% production of energy in 2020 to come from renewable sources. The increased use of bio-energy is expected to play a major part in meeting this new objective. Although there is indeed an important role for sustainably produced biomass in a future energy mix, the increased mobilisation of biomass from forest and farming systems is expected to have significant impacts on existing carbon stocks (and therefore increase Green House Gas (GHG) Emissions) that, if not managed correctly, can seriously damage biodiversity. Despite these dangers, no safeguards have been agreed to avoid these impacts. Instead, the European Commission has been tasked with developing new separate proposals for this by the end of 2009.

PROCESS

Following a public consultation exercise in July 2008 (in anticipation of the outcome of negotiations on the Renewables Directive) the Commission is currently preparing its proposals for what is likely to take the shape of a new Directive. It is expected to be published either in December 2009 or in the first month of 2010.

WHAT NEEDS TO BE DONE BY THE EUROPEAN PARLIAMENT?

Recent discussions with the Commission services clarified that the Commission's Impact Assessment for its proposal has again not assessed the impacts this policy will have on existing carbon stocks.

On the one hand, the Commission concedes that when more wood is taken from a forest and burned, for instance, carbon stocks will be reduced and there will be an increase in GHG emissions. It is argued that this is not a bad thing because as long as trees are replanted this carbon will be sequestered again, and it has been suggested that at current extraction rates European forests are still accumulating biomass. The problem with this argument is that the extraction rates of biomass are set to increase significantly under the new Renewables Directive. Additionally, forests typically take several decades to re-grow and accumulate carbon, meaning emissions from burning bio-energy until 2020 will lead to an actual increase in GHG concentrations in the atmosphere unless effective measures are taken that will avoid an overall reduction in existing carbon stocks.

The consequences of such an oversight, considering the EU's efforts to tackle climate change, would be disastrous and shall undermine the EU's leadership in international climate negotiations.

The EEB therefore calls on the European Parliament, when negotiating the Commission's proposal for a likely new Directive, to make the correction of this fatal flaw their highest priority.

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REGULATING THE KNOCK-ON IMPACTS OF BIOFUELS UNDER THE RENEWABLE ENERGY DIRECTIVE

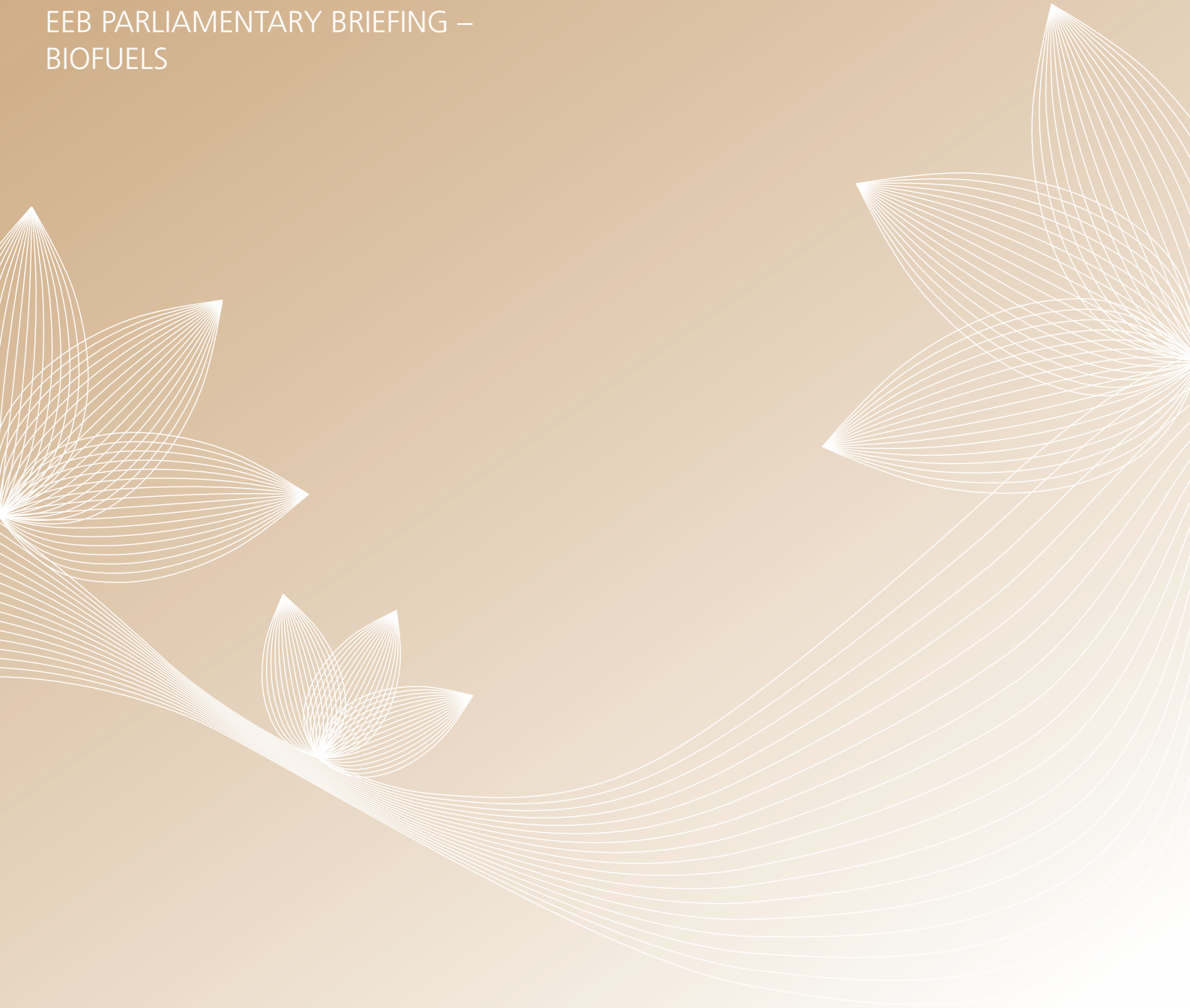
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LEGAL STATUS/PROCEDURE: CO-DECISION

STATUS: COMMISSION TO PUBLISH PROPOSAL BY MARCH 2010

FORMER EP RAPPORTEUR: CLAUDE TURMES (LUXEMBOURG, GREEN GROUP)

EEB PARLIAMENTARY BRIEFING –
BIOFUELS



BACKGROUND

In December 2008, the European Parliament agreed a new Renewable Energy Directive which included a 10% target for renewables in transport. This is generally expected to be met through a substantially increased use of biofuels.

The European Parliament played a critical role in advocating for the new Directive to consider the indirect land use change impacts of biofuels in determining which biofuels actually reduce Green House Gas (GHG) emissions, and which contribute to GHG emissions, and by how much. Under the final deal, a decision on how to factor in these impacts was postponed and the Commission tasked with developing, if appropriate, a proposal. As a consequence of this decision, most of the biofuels that are currently allowed to count towards the 10% target are as likely to lead to more GHG emissions as to less.

PROCESS

The European Commission is currently preparing a proposal which it should publish no later than December 2010 according to the Renewables Directive. However, the Commission set itself an earlier deadline so Member States can consider these in preparing their National Allocation Plans (NAPs), and aims to send these to Council and Parliament in spring 2010 for a co-decision procedure.

WHAT NEEDS TO BE DONE BY THE EUROPEAN PARLIAMENT?

Assessing and regulating the indirect land use change impact of biofuels is probably the single most political aspect of the EU's new biofuel policy because it puts into the question the sensibility of the 10% biofuel target and the role that most biofuels currently supported under the Renewable Energy Directive (RED) play in reducing GHG emissions. Getting it wrong will mean that the EU risks wasting significant amounts of scarce financial resources on a policy that may actually increase GHG emissions.

The EEB therefore calls upon the European Parliament to give the highest priority to the Commission's proposal when published in spring 2010 and ensure that it will contain the following elements:

- A scientifically robust assessment of the indirect land use change impacts.
- A set of Indirect Land Use Change Correction factors to be used in the Life Cycle Analysis, linked to different types of biofuels and coupled to a minimum GHG saving threshold of 60%.

Although it is important that this issue will be addressed as soon as possible, it is even more important that it will be addressed properly. Member States (MS) are well advised to cool down on their biofuel support measures (the Netherlands, UK and Germany are doing so) at least until 2014 when the Commission will present another assessment of the sustainability aspects of meeting the 10% target. If necessary, MS should propose adjustments to the target as well as other additional measures to ensure sustainability.

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MAKE THE PUSH FOR CLEANER INDUSTRIAL PRODUCTION

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LEGAL STATUS/PROCEDURE: CO-DECISION

STATUS: COMMON POSITION EXPECTED OCTOBER, SECOND READING POSSIBLY NOVEMBER/DECEMBER.

EP RAPPORTEUR: HOLGER KRAHMER (GERMANY, ALDE GROUP)

EEB PARLIAMENTARY BRIEFING –
INDUSTRIAL EMISSIONS (IPPC RECAST)



BACKGROUND

On December 2007, the Commission presented its proposal for an Industrial Emissions Directive (IE-D), addressing Large Combustion Plants, Solvents, Waste Incineration and Titanium Dioxide. The IPPC is the centrepiece of this legislation, covering about 44,000 of the biggest industry installations in the EU, estimated to be responsible for 83% of sulphur dioxide (SO₂), 55% Volatile organic compounds (VOCs), 34% of nitrous oxides (NO_x), and 25% of dioxins and mercury emissions in the EU. The annual health costs relating to these pollutants are estimated to be between 53-164 million Euros.

Of primary importance in the proposal is the strengthening of the dynamic Best Available Techniques (BAT) standards. The relevant industry groups, Member States experts and NGOs discuss what is considered as BAT - i.e. techniques that **take into account cost and advantages** of the industry in question - which can be used to achieve a high level of environmental protection under economically acceptable and technically feasible conditions. The BAT are then considered in technical documents, the BAT reference documents (BREFs).

The intention of the IPPC was that each installation shall have permit conditions with an emissions limit, which can be achieved by using BAT (BATAEL). Unfortunately, this basic approach was not followed because of the non-binding nature of BREFs, and because "derogations" from BAT were always possible due to "local conditions" such as technical characteristics of the installation, the geographical location, or the local environmental conditions. This caused different interpretations of "local conditions" and derogations from BAT, leading to a situation where industry operates under different requirements across the EU. It also restricts the drive for development of the European eco-industry - an industry which is currently the world leader in environmental technologies and employs more people than the EU car industry¹.

The Commission proposed to remediate the problem by strengthening the role for BREFs and stated that permits should set Emission Limit Values (ELVs) that do not exceed the BAT associated emissions levels (BATAEL). However, the use of the derogation facility because of "local conditions" lacks clarity, merely stating that the Commission "may" propose criteria for the granting of derogations. The Council thinks that one way to control the derogations would be by requiring the competent authority to provide justification for an assessment and allow the Commission to establish "guidance specifying the criteria to be taken into account" for this derogation.

¹ Ernst and Young, 2006

PROCESS

The Euro Parliament had its plenary reading on 10th March and Council had its first reading agreement on 25th June. It is expected that the common provision will be adopted on 8th October. The EEB expects the second reading to start in November 2009.

WHAT NEEDS TO BE DONE BY THE EUROPEAN PARLIAMENT?

Both the Commission and Council failed to deal with derogations from BAT performance. The Presidency's proposal further weakens the Commission's mandate to remediate this problem because the current wording on derogations (Article 16.4) offers too much flexibility to authorities to deviate from BATAEL, creating an uneven playing field for industry and different levels of environmental protection for EU citizens.

The EEB therefore calls upon the European Parliament to give the Council's common position the highest priority and

- Persist in its strong support for the extension of minimum environmental performance based on BATAEL to other industrial sectors not yet covered by the "European Safety Net". This EU wide safeguard will limit the derogation facility.
- Considerably restrict the derogation facility from BATAEL (Art. 16.4), and provide for criteria in the legal text on the local conditions.
- Large Combustion Plants (LCPs) contribute around 90% of NO_x and SO₂ of industrial emissions. Therefore, the European Parliament must reject the possibility for some Member States that did not implement BAT for LCPs to get further derogations and 5 years delay for modernising existing large combustion plants (reject TNP (Art. 33b) and opt out derogation (Art. 33c)).

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KEEP THE MOMENTUM: STRENGTHEN THE RoHS DIRECTIVE

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LEGAL STATUS/PROCEDURE: CO-DECISION

STATUS: AWAITING FIRST READING, POSSIBLY NOVEMBER 2009

EP RAPPORTEUR: JILL EVANS (UNITED KINGDOM, GREENS GROUP)

EEB PARLIAMENTARY BRIEFING –
RESTRICTION OF HAZARDOUS
SUBSTANCES DIRECTIVE (RECAST)



BACKGROUND

The objective of the Restriction of Hazardous Substances Directive (RoHS) is to protect human health and the environment, and to contribute to the environmentally sound recovery and disposal of electrical and electronic equipment.

Widespread contamination from hazardous substances and materials used in electrical and electronic equipment is still a matter of high concern due to the limited scope of the RoHS legislation. Many substances with undesirable properties such as PBT (persistent, bioaccumulative and toxic) or CMR (Carcinogenic, Mutagenic or toxic to Reproduction) are still used in Electrical and Electronic Equipment (EEE) products.

Other harmful substances such as dioxins and furans (transformation products) may be generated when products containing halogenated¹ substances are incinerated at end of life within the EU or in developing countries. These substances have been recognised as priority contaminants in the Stockholm Convention (i) which seeks to eliminate these persistent organic pollutants from the global environment.

RoHS is well understood and respected in the electronic sector. Being RoHS compliant has become a de facto standard for companies operating on a global market. A number of prominent actors in the electronics supply-chain, OEMs (Original Equipment Manufacturers), and suppliers, have furthered this process by investing in and adapting to a general phase-out of other hazardous chemicals such as halogenated organic² substances.

EU regulators now have a unique chance to confirm this progress and support and uphold the momentum gained in industry by strengthening the RoHS directive.

In the new proposal, no new substances were put forward for a ban and it is suggested that the assessment of eventual substances to be restricted would be undertaken under a modified procedure according to REACH, a procedure that would be further defined by the Commission.

¹ Halogenated substances contain bromine (Br), chlorine (Cl), fluorine (F) or iodine (I). In this document the term halogenated is understood as containing bromine and/or chlorine, which is the definition used widely in electronics industry.

² An organic compound contains carbon. An inorganic compound does not contain carbon, like sodium chloride, NaCl, table salt.

ⁱ Stockholm Convention on Persistent Organic Pollutants of 22nd May 2001

WHAT NEEDS TO BE DONE BY THE EUROPEAN PARLIAMENT?

The EEB asks that the level of ambition of the new proposal be in line with the importance of those objectives. We advocate for the introduction of a systematic approach for restriction of harmful brominated and chlorinated organic substances in the RoHS. This approach should take into account the direct impact of substances as well as the impact of transformation products at end of life.

Therefore we call on the MEPs to amend the European Commission proposal for a revised RoHS Directive to:

- consider both direct and indirect impacts of substances and its transformation products
- support a general phase-out of brominated and chlorinated organic substances in EEE
- Strengthen the RoHS Directive by targeting the general phase out of brominated and chlorinated organic substances as well as phthalates and other hazardous chemicals in electronics products.
- Keep RoHS as a complement to the REACH process

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A CALL FOR BETTER ENERGY EFFICIENCY - BETTER PERFORMANCE AND STANDARDS

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LEGAL STATUS/PROCEDURE: CO-DECISION

STATUS: PRESIDENCY LOOKING TO REACH AGREEMENT ON 7TH DECEMBER,
SECOND READING EXPECTED EARLY 2010

RAPPORTEUR: SILVIA-ADRIANA TICAU (PSE/RO)

ENERGY PERFORMANCE OF BUILDINGS
DIRECTIVE (EPBD) COM (2008)



BACKGROUND

In November 2008 the Commission published a proposal to revise the existing 2002 Directive. The Energy Performance of Buildings Directive's (EPBD) promotes the cost-effective improvement of the overall energy performance of buildings, while at the same time harmonising standards across Europe to those of the more ambitious Member States¹. Its provisions cover the energy needs for space and hot water, heating, cooling, ventilation and lighting for new and existing buildings.

It is important to tackle this 'sector' as energy use of buildings account for around 40% of total energy use in Europe. It is reasonable to expect that by 2020 30% energy savings could be achieved in this sector, which would alone reduce the EU's total energy consumption by around 11%². However, since energy use in this sector continues to increase, further measures are required.

In Parliament, it is the Committee on Industry, Research and Energy which is responsible. However, all MEPs will be invited to debate and vote at pivotal stages of the legislative process. Given the crucial nature of this legislation and its contribution to meeting our wider climate goals, MEP involvement is vital.

PROCESS

The revised Directive is currently being discussed by Council, with a round of trialogue negotiations due to begin at the end of September. The timetable for revision is tight with the Presidency looking to reach agreement by Council on 7th December. A second reading of the agreed text is expected in the European Parliament in early 2010.

WHAT NEEDS TO BE DONE BY THE EUROPEAN PARLIAMENT?

The EEB hopes that the new Parliament will support the impetus and priority given by the Swedish Presidency and follow the ambition of the former Parliament with the revision of the EPBD. It is the EEB's wish that the Council quickly adopt an EPBD recast with clear objectives, timelines and deliverables, as was proposed by the European Commission and further strengthened by the former European Parliament in its first reading opinion.

¹ OJ L 1, 4.1.2003, p. 65-71 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0091:EN:NOT>

² See the Commission's 2008 Communication 'Energy efficiency: delivering the 20% target' (COM(2008)722)

We believe the Directive should include:

- **For all new buildings:** Net zero energy by 2015, with mandatory 'significant progress' shown by 2012, and with an agreement reached by 2010 on a common definition of net zero energy buildings that follows wide consultation with stakeholders. To emit net zero energy, a building must first meet strict, high energy performance requirements to reduce energy needs, with the remaining needs serviced through renewable sources.
- **For all existing buildings:** A programme of fast, extensive and thorough renovations is required. Minimum energy performance requirements for all renovations should be established for all building envelope components and technical building systems by 2015.
- **Reaching cost-optimal levels for the overall energy performance of all buildings:** By 2010, agree a common methodology for calculating cost effectiveness of minimum energy performance requirements for buildings. Costs of reaching climate goals should be included in the life cycle cost analysis (calculating the economic impact), while calculating the socio-economic, as well as the private-economic, optimum. The legislation must enable and incentivise individual Member States to set higher targets and to create, support and subsidise schemes to meet them.
- **The right fiscal incentives in place:** New, reliable, predictable funding made available over the long term is required. Increasing the scope of the European Regional Development Funds (ERDF) and opening the Structural Funds to energy efficiency will be needed. The EEB welcomes a new measure on the ERDF which now allows all Member States up to 4% of their total allocation to be spent on energy efficiency improvements and the use of renewables in housing. The EEB would also like to see increased use of the available technical assistance that will help Member States to access fully and effectively this increased share.
- **Enforcement through certificates:** Agree minimum standards on energy performance certificates by 2010, with all public buildings displaying the energy performance certificate

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