

EEB PRIORITIES FOR THE EU IN 2008

**Addressed to the Governments of Slovenia and France
as well as the European Commission**

Brussels, May 31st, 2007

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1. INSTITUTIONAL REFORM OF THE EUROPEAN UNION

The German Presidency aims to initiate negotiations for a Treaty revision in June 2007 to replace the Constitutional Treaty that was refused in two of the four referendums that were held in the EU in 2005. Its aim is to finalize these negotiations quickly, but it is quite possible that they will go in 2008.

The EEB calls upon the 2008 Presidencies to build on the strong environmental and sustainable development dimensions of the existing Treaties, and to strengthen democracy, transparency and public participation in the new text. On top of that, it would like to raise two issues where the developments in the last few years justify new initiatives.

More precisely the EEB calls for:

- Sustainable Development to remain key objective of the EU.
- Article 6 of the EC Treaty, on integration of environmental policy making in all EU policies, to retain its prominent place.
- No weakening of the Environment Chapter (articles 174-176 of the EC Treaty), nor in content, nor in legal status.

- No step back in the role of the Parliament in legislation compared with the Constitutional Treaty.
- Inclusion in the new Treaty, in its entirety, of Article I-47 of the Constitutional Treaty, on “the principle of participatory democracy”.

Furthermore, the EEB calls for progressive changes with regards to:

- Access to justice in matters relating to the environment. The Aarhus Convention expects the European Community, Party to that Convention since May 2005, to allow such a right to, at least, environmental NGOs. The Treaty however narrows this down to those having a direct and individual interest. This needs to be changed in order to bring to the EU level the same level of environmental democracy as in most of the EU Member States and agreed in this UN-ECE Convention.
- The unanimity requirement for the adoption of fiscal instruments for environmental purposes needs to be removed. It is more and more clear that fiscal instruments have an important role to play, in particular also in climate policies. This is reconfirmed in the Green paper on Market Instruments for Environment, published by the Commission on 28 March 2007. It is also clear that a certain level of EU harmonisation is needed. With 27 and more Member States it is virtually impossible to reach unanimity without seriously undermining the quality of any EU law.

2. CLIMATE AND ENERGY POLICY

Energy and climate policy issues and their interlinkages have gained increasing attention in the EU. Enhanced recognition of the urgency of the climate change challenge requires looking into political frameworks to deliver deeper emission cuts. Concerns about uncertain energy supply in the future and increasing prices must be integrated into a combined energy and climate security approach that focuses on energy conservation through efficiency gains and domestic sources of renewable energy. This combination could potentially work out fine for the environment as reinforcing elements of a comprehensive EU strategy. In March 2007, EU Heads of State and Government at the EU Spring Summit proved their recognition of this beneficial combination by adopting new, more ambitious targets for greenhouse gas emission reductions, renewables and energy efficiency for 2020. These targets now need the implementation framework to ensure the obvious synergies can be realised.

The Spring Summit called upon the Commission to produce a European Strategic Energy Technology Plan, for delivery not later than at the 2008 Spring Summit. The EEB supports any effort to accelerate the competitiveness of energy efficiency and renewable energy technologies, including by boosting research. It agrees that certain low carbon technologies can contribute as well to the reduction of climate change, such as Combined Heat and Power generation and more efficient gas and coal power stations. It

also agrees with the European Council urging “Member States and the Commission to work towards strengthening R & D and developing the necessary technical, economic and regulatory framework to bring environmentally safe carbon capture and sequestration (CCS) to deployment with new fossil-fuel power plants, if possible by 2020”.

The EEB calls upon the 2008 Presidencies to implement its energy and climate policy agenda in a way that combines environmental, social and economic objectives and promotes a leadership role of the EU in the world on developing environmentally sustainable energy practices. For this to be achieved, existing policy instruments must be reviewed to enhance their effectiveness and new measures must be brought forward to go beyond the status quo.

In particular, the EEB calls for:

Strong leadership to fight climate change, internationally and domestic:

- Continued EU leadership aiming at the successful conclusion of an international agreement in 2009 continuing the Kyoto Protocol, with a specific emphasis on the responsibility of Poland and Denmark as hosts of the 2008 and 2009 UN climate summits, respectively.
- A review of the EU Emissions Trading System (ETS) that does away with the deficiencies exposed in the first two trading periods by giving certainty over absolute emission cuts realized by the sectors involved in line with the 30% EU reduction targets for 2020 and moving towards full auctioning as the allocation mechanism.
- Inclusion of emissions from international aviation in EU climate policy through a package of measures, including an ambitious cap on CO₂ emissions through a link to the EU ETS.
- As 2008 represents the start of the commitment period under the Kyoto Protocol the EU needs to continue to monitor the success of EU climate policy instruments in meeting existing greenhouse gas emission reduction targets, and introduce new and additional measures to control rising emissions in transport and other sectors.

An energy policy that puts reducing energy needs, expanding the use of renewables and reducing the environmental impacts of all forms of energy production and use into the heart of EU’s regulatory, market instruments, research and funding policies.

- A review of the implementation of existing EU policies and targets on renewable energy and energy efficiency (such as the Directive on Energy-using Products), leading among others to a dynamic policy of standard-setting and certification of energy using appliances.
- Implementation of a strong set of additional policies to meet the 2020 targets for energy efficiency.
- Adoption of legislation on renewable energy that will boost renewables in a sustainable fashion across all member states, with the introduction

of sectoral targets for renewable heating and cooling and renewable electricity.

- Launch a major EU initiative to shift taxation burdens from labour to the use of energy, except for renewables.
- A careful policy regarding the production and use of biomass, in order to maximise the environmental benefits and avoiding adverse environmental and social impacts.
- Make the obligation for CCS from 2020 dependent from the assurance of a safe storage system, minimized environmental impacts of coal use for electricity production and a robust environmental liability scheme for CCS.
- Ensure that public funding for CCS development is restricted to determining and achieving strict environmental and safety requirements for storage, and that this funding in no way reduces the funding for efficiency and renewables. This could be done by charging the electricity producers using fossil fuels with a CCS-research charge, as an expression of the polluter pays principle.
- Promotion of the use of Structural and Cohesion funds to assist in major energy conservation programmes in the housing stock.
- Resist the temptation to see waste mainly as an energy resource. Material recycling in general has preference over energy recovery.
- A refusal to impose to any EU Member State the inclusion of nuclear energy in their national energy policy, rather the opposite: a phase out of nuclear power in the entire EU.

3. TRANSPORT POLICIES

Mobility continues to grow, and therewith its environmental impacts. This includes greenhouse gas emissions, pollutants that affect public health and environment, and the growing roads infrastructure and urban sprawl. Mobility needs to be tackled from different sides in parallel: influence mobility choices of people and commercial transporters, reduce mobility needs, protect environmentally vulnerable areas from roadbuilding and fragmentation, and improve the environmental quality of cars in particular.

In general, the EEB calls for transport policies that combine continuous improvement of energy efficiency of cars with decoupling of transport development with GDP growth and modal shift.

In 2008, we expect several proposals that could make a substantial difference:

Biofuels

In 2008, the Presidencies will have to lead the debate about a Directive that will lead the implementation of the Council decision for a 10% biofuels target by 2012. It is unclear still what the EP's position is on this target. The EEB is opposed to the proposal for such a legally binding target, given the risks that such a target will lead to an increase of pressures on the biodiversity systems

in the EU and in developing countries that will export biofuels to the EU, and the doubtful overall environmental balance of first generation biofuels. Positive therefore is the fact that the Council supported the mandatory target on the condition that feedstocks can be produced sustainably and biofuels produced with second generation technology will be on the market in large quantities.

The EEB therefore calls upon the Presidencies to:

- Given the uncertainty around sustainability of production and timing of second generation biofuels entering the market on a large scale, not to pursue with a legally binding biofuels target in the legal proposal implementing the Council position.
- To lead a critical assessment of the Commission's proposals, insisting on a system of environmental safeguards, including mandatory certification, based on a solid and comprehensive life cycle analysis. Only Biofuels which would meet these strict criteria should be eligible for any form of public support. Setting and enforcing strict sustainability criteria should effectively exclude certain biofuels entering the EU market for those reasons.

Setting limits to CO2 emissions from cars.

The Commission has proposed to set an average limit for CO2 emissions from cars to 130 g/km by 2012. This in response to the likely failure of the car industry to reach a 140 g/km average by 2008, followed by one of 120 g/km by 2012. The EEB considers the Commission proposal an unacceptable gesture to a car-industry that has never put reduction of emissions high on its agenda.

The Commission aims to reach the 120 g/km average by expecting additional reductions from tyres, better driving styles etc. It is not impossible that in the end the use of biofuels might also be calculated in. The EEB considers this approach as contrary to the philosophy of better regulation. Better regulation should consist of laws where it is clear who is the actor, what is the task and how it can be controlled.

The EEB therefore calls upon the Presidencies to:

- Insist that the 120 g/km obligation for average cars will be laid down in unambiguous EU legislation, with a transparent and reliable system of burden sharing amongst the different car-producers, which ensures the average will be met.
- Set a further reduction target of 80 g/km by 2016, also to trigger research.

Improving fuel quality

In January 2007, the Commission published a draft directive to revise an existing directive on fuel quality. It has interesting elements, such as a 1%/year steady reduction of greenhouse gas emissions from the fuel, based on a life-cycle analysis of the fuels. It is crucial that this element remains part of the proposal and is further extended with a list of criteria and elements that should be included in the life cycle analysis.

However, 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, and they should not be ignored. The draft directive also includes important proposals with regards to the reduction of health impacts of transport fuels, which the EEB would like to see adopted.

The EEB therefore calls upon the Presidencies to:

- Ensure that this Directive will include this GHG reduction target and that the Directive contains clear provisions for the methodology for the life cycle analysis
- And most importantly that direct and indirect land use change and other environmental and social impacts are addressed.
- Support the 10 ppm sulphur fuel limit by 2009, as an important tool to reduce air pollution, particularly dangerous dust particles
- Support the proposal to cut the sulphur content of inland waterway gas-oil to 10 ppm. This will help inland shipping to become cleaner and contribute less to particle pollution. But seek to bring the date for compliance forward to 2009.
- Ensure the adoption in parallel of a directive making the introduction of vapour recovery equipment at filling stations, to compensate for an increase in emissions of polluting vapours that will result from greater use of ethanol.

EURO VI for heavy-duty vehicles

The Commission is expected to come up with a long overdue proposal to set new emission limit values for heavy-duty vehicles. These limit values are urgently needed to help Member States meet their obligations on air quality, because heavy duty vehicles contribute significantly to air pollution in urban areas. Member States have repeatedly pointed out the need for ambitious EU source policies – limit values for heavy duty vehicles are an essential element of this policy.

The EEB calls upon the Presidencies to:

- Work for setting emission limit values which reduce the currently allowed levels of particles to 2/3 mg/kWh and the NO_x limits to 0.05 g/kWh. This is likely to require the use of both particle filters and de-NO_x catalysts.

Introduce polluter pays principle in road and air transport

The new EU Sustainable Development Strategy calls for transport demand management, leading to decoupling with economic growth, as well as policies to promote a shift to more environmentally-friendly modes. Besides the promotion of public transport systems and organization of cities that reduce the need for mobility, a very important tool is to make the users of, in particular, road and air transport, pay the real costs of their mobility. This also includes the end of subsidies to construction of roads and airports. In some cases these subsidies are even given to projects which are in conflict with

Natura 2000 and air pollution limit values. This should be stopped immediately.

In June 2008, the Commission is to, finally, produce a communication on a charging framework.

The EEB calls upon the Presidencies to:

- Promote effective demand management in EU transport policy, and take a resolute lead on transport pricing.
- Support research and study to get a very accurate methodology to evaluate external costs,
- Seek agreement amongst all member states for an EU kerosene tax, or otherwise initiate enhanced cooperation between as many as possible.
- Promote a considerable increase of minimum fuel taxes as part of an effort to systematically limit and reduce the environmental impacts.
- Make the Eurovignette into an effective instrument to internalize external costs.

4. BIODIVERSITY

In 2008, a mid-term review of the Biodiversity Action Plan implementation will be on the agenda, possibly linked with output from the “streamlining biodiversity indicators 2010 process”. This is the last opportunity to steer activities in Member States so that by 2010 we really will see a stabilisation of biodiversity in the EU, after a long period of decline. However, it is far from obvious such a result can be achieved. Crucial as well will be to develop a post 2010 vision for biodiversity in order to provide a solid political framework to further tackle the negative impacts of different policies on biodiversity, most notably agriculture, transport and energy.

The EEB calls for:

- A robust and honest review of progress made with biodiversity protection in the EU, with high level involvement, including from the European Council, based on the outcome from the SEBI 2010 process.
- In relation to adaptation to climate change, make sure that implementation of the Habitats and Birds Directive leads to the creation of a functioning, robust European ecological network, including ecological corridors, that will help achieve ecosystem resilience in the face of climate change.
- Integration of the biodiversity EU objectives in the CAP Health Check and the budget review. The EU Common Agriculture Policy should have biodiversity protection and the provision of ecosystem services in the EU as one of its long term strategic goals.
- High level discussions on a post 2010 biodiversity policy which will aim to halt as well as reverse biodiversity loss.

5. THE HEALTH CHECK OF THE COMMON AGRICULTURE POLICY

In 2008, the “Health Check of the Common Agricultural Policy” will be on the agenda which should lead to a critical assessment of the CAP, in particular with respect to inter-linkages and contributions to other policy objectives like mitigation of and adaptation to climate change, halting biodiversity loss, the implementation of the water framework directive, etc., and achieving more sustainable agriculture practices across the EU. The debate should entail the definition of intermediate (2009-2013) and long-term objectives (2014-2020). These discussions should also make a contribution to “greening” EU expenditures as requested by the Green 10.

The EEB calls for:

- A critical and solid analysis of the “healthiness of the CAP” addressing both farmers’ and consumers’ needs as well as its contribution to the two most crucial challenges facing the world today: combating climate change and maintaining functioning ecosystems through the preservation of biodiversity
- Developing on the basis of the above analysis, a clear vision for the CAP post 2013 including the long term objective of supporting farmers and landowners to manage their resources sustainably through targeted payments for the delivery of specific environmental services . Inter-linkages with other policy areas like climate, biodiversity, energy, health, water and pesticides policy should be addressed.
- Defining intermediate (2009-2013) targets: these targets should include a substantial increase of compulsory modulation in order to direct financial support to more environmentally friendly, low input farming systems such as organic and high nature value farming systems and an enhanced cross compliance scheme. Also the loss of compulsory set aside (a supply management measure that has led to environmental benefits) will need to be compensated with new measures.
- An active role in organising discussions with stakeholders, and in particular environmental citizens organisations, on the proposals presented by the Commission.

The EEB invites in particular the Slovenian government to organise an international conference for NGOs to discuss the needs and potential of the CAP Health Check. The EEB is prepared to assist in its organisation.

6. COEXISTENCE OF GM CROPS WITH CONVENTIONAL AND ORGANIC FARMING

The Commission in 2008 has to report to the Council and the European Parliament on the progress made in relation to the implementation of national measures on the coexistence of GM crops with conventional and organic farming.

The EEB is very concerned that the Commission is going to follow the same approach of the 2006 report (Com 2006/104) that did not recommend an EU regulation on coexistence, using the excuse of needing “to conclude the process of implementing national coexistence measures”.

The 2006 report clearly shows that the Commission is failing: on one hand it is pushing Member States to define laws and on the other hand it is itself rejecting MS proposals aimed at preventing any GM contamination of organic and conventional farming. By favouring weak measures, such as a non mandatory approach, and delaying any concrete decision until 2008 or later, the Commission is opting for a “wait-and-contaminate” approach which could be very damaging for organic and conventional farming.

So far the implementation of the Commission guidelines (Recommendation 2003/556/EC) has been a failure across the European Union, due to:

- The clear difficulties of growing GM crops without contaminating traditional and organic cultivations;
- The demands from citizens for GM-free food and GM-free local environment.

In addition, thousands of local and regional authorities around the Union are calling for the exclusion of GM crops in their area, so as to protect their local economy, culture, environment and health of their citizens.

Against this background, the only viable solution is an EU regulation recognizing 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, which in the plenary of 18 December 2003 adopted a resolution 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”.

The EEB therefore calls upon the Presidencies

** to work for uniform and binding Community rules allowing Member States the right to set up GM-free zones at local and regional level, and to:*

- seek strict purity standards for GM contamination of seeds, legally and technically established at the reliable detection limit of 0.1% as proposed by the European Parliament in its own-initiative report on coexistence (December 2003).

7. SUSTAINABLE CONSUMPTION AND PRODUCTION PATTERNS

In 2008, the Commission will produce its EU Sustainable Consumption and Production Action Plan, representing EU's combined contribution to one of the outcomes to the UN Johannesburg World Summit on Sustainable Development of 2002. It is anticipated that the Action Plan will take forward the work begun on Integrated Product Policy but which has been dormant for the last few years. It will also likely 'group' more strategically existing policy mechanisms that have the same objectives in promoting more sustainable production, for example, the EU Ecolabel, EMAS and green public procurement. It is not yet clear what will be included on sustainable consumption, which is already a difficult issue for Governments to address beyond communication campaigns.

The EEB calls upon the 2008 Presidencies to ensure that the Action Plan focuses on the idea of 'action', with clear, detailed objectives (particularly linked to the 6th Environmental Action Programme) and including activities that influence consumption (particularly advertising). The Presidencies should take a strong lead in ensuring that the Commission's proposal is ambitious.

In particular, EEB calls for:

- Framework legislation on products, clearly identifying the priority environmental objectives to be met in product design and production. These objectives are already detailed in the 6EAP, and can form the starting parameters against which product sustainability is to be measured.
- Such a framework to include extended producer responsibility legislation on environmentally sound products, or a general obligation to comprehensively integrate environmental aspects into all eco-design and standardisation work.
- A supporting mechanism that requires companies to provide quality and comparable product lifecycle data, through a general obligation to manufacturers.
- The legislative framework to include the creation of a steering committee on product policy, enhanced by specialised working groups on individual product policy tools. The committee and the working groups should ensure balanced participation of stakeholders and transparent participation procedures.
- A mechanism that systematically drives forward continuous improvement, such as the Japanese 'Top Runner' scheme to feature in the action plan.
- Actions addressing sustainable consumption, especially those focusing on marketing and advertising.
- Pricing policies that better reflect the environmental impact of a product, especially in the resources used.

8. ECOLOGICAL INDUSTRY PRACTICE

IPPC directive

The Commission's current review might result in a proposal towards the end of 2007 to amend the IPPC Directive. This is particularly untimely because the implementation of the IPPC directive is moving forward only slowly and several Member States are unlikely to meet the deadline of October 2007. The Commission's plans include considering financial instruments to reduce specific emissions.

The EEB calls upon the Presidencies to:

- *Facilitate exchange on best practice in IPPC implementation, possibly sector-wise;*
- *Reject any proposal to amend the IPPC Directive at this moment;*
- *Encourage the Commission to use the existing provisions such as IPPC-Article 18 to set community-wide emission values to improve and harmonise implementation and prevent eco-dumping;*
- *Make the permit-writing a more transparent process and increase the involvement of the public, for example via online-published non-technical summaries and permits.*
- *Reject proposals for trading schemes for pollutants that have local effects to health and/or environment.*

NEC directive

The Commission is foreseen to propose a revision of the National Emission Ceilings (NEC) directive in mid 2007. This is one of the most important tools for Member States to reduce background concentrations of health-damaging particles and to protect ecosystems from air pollution.

The EEB calls upon the Presidencies to:

- *Work for a revision of this directive which is environmentally ambitious, including new national emission ceilings, which are set to achieve the EU's long-term objectives of not exceeding critical loads and levels for ecosystems and effective protection of all people against recognised health risks from air pollution by 2020 as specified in the 6th Environment Action Programme.*

9. TACKLE POLLUTION FROM SHIPS

As soon as possible, but not later than by the end of 2007, the Commission should propose binding legislation to reduce NO_x emissions from ships as well as a proposal to revise the directive on the sulphur content of marine fuel to address SO₂ emissions from ships.

The EEB calls upon the Presidencies to:

- *Urge the Commission to come forward with these important proposals*

- Treat this issue with priority and aim to reduce total emissions of SO₂ and NO_x from international shipping in European sea areas by at least 70 – 90%, as compared to the emission levels of 2000.

10. TOWARDS A GLOBAL MERCURY BAN

Mercury has been on the UNEP agenda since 2001 in view of discussing global measures to reduce the health and environmental impacts of mercury. The EEB, in coalition with a range of organisations worldwide, is advocating reductions in view of eliminating emissions, supply and demand of mercury.

Mercury is highly toxic, causing damage to the nervous system at even relatively low levels of exposure. It is particularly harmful to the development of unborn children. It collects in human and animal bodies and can be concentrated through the food chain, especially in certain types of fish. It is well known that mercury travels throughout the atmosphere, contaminating European and global food supplies at levels posing a major risk to human health, wildlife and the environment.

The EU so far has played an important role, pushing towards global legally binding solutions to achieve adequate control and reduction of the use, supply and demand of mercury.

2008 could well become a crucial year. A working group established in by the 24th UNEP Governing Council will 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 group will report to the 10th Special Session of the General Council in February 2008, and continue its work, leading to hopefully a final set of recommendations to the 25th UNEP General Council in February 2009.

The EEB expects leadership from the European Union in this process, consistent with the concerns many people have about the negative impacts of mercury and the potential of making it redundant.

In the EU itself, the discussion is going on about legislative proposals to implement the Mercury Strategy adopted in 2005. The Environment Council might still need to deal with part of these proposals, in particular regarding the EU mercury export ban and the storage of surplus mercury (mainly from decommissioned chlor-alkali plants).

The EEB calls for:

- *Continuation of the positive, pro-active role of the EU and its Member States at the Special Session of the UNEP Governing Council (February 2008), towards the development of a global binding, instrument to address mercury and at the same time pushing for:*
 - Establishment of a **global mercury use reduction goal of 70% by 2017**; ending the use of mercury in electronics, button cell batteries, thermometers, and other non-electronic measuring equipment; phasing out the mercury-cell chlor-alkali process; and developing a roadmap for

the increased use of mercury-free technologies in small-scale and artisanal gold mining, including the establishment of a sector-specific demand reduction goal for this sector of 50% by 2017 as recommended by Global Mercury Project of UNIDO, achievable largely by eliminating the use of mercury in the processing of whole ore; and ensuring that mercury reduction approaches/technologies are a key component in already existing artisanal and small scale goldmining development projects. At the same time:

- **Reducing the supply of mercury** by ceasing primary mining, except where mercury is produced as by-product from other ore processing; restricting mercury exports from developed nations; and managing mercury from closing mercury cell chlor-alkali facilities.
- **New and additional financial resources** to be provided by developed nations to support these activities in developing nations.

With regards to the internal EU legislative process, the EEB calls for:

- An EU mercury export ban and storage of surplus mercury, including the following:
 - Implementation as soon as possible by 2008, but certainly not later than January 2011
 - The scope to include metallic mercury, mercury compounds and mercury-containing products which are currently prohibited in the EU market.
 - An import ban of mercury and mercury compounds so the EU can effectively manage its mercury supply and demand
 - A trade-tracking system, to record all imports and exports of mercury between Member States and between the EU and other countries where the trade is not restricted
 - Ensure, as soon as possible, temporary storage of surplus mercury, in secure sites, continuously monitored and located where intervention can take place immediately if necessary.

11. WATER

Implementation of the WFD, specifically work on the programme of measures and the river basin management plans is getting to a crucial stage in 2008. The environmental objectives for the member states will be determined in 2007 and work on the programme of measures will intensify in 2008. It is crucial that water pricing is part of these programmes in a way that meets the requirement of WFD Article 9 and the polluter pays principle. Priority substances is very well possible it will go into conciliation in 2008 so one clear demand on water could be related to that as well.

The EEB therefore calls on the presidencies:

- To give a high political profile to the use of economic instruments in WFD implementation, especially to water pricing, both as a way to financing

sustainable water management, as well as a tool to adapt to the impacts of climate change by tackling demand management.

- To ensure that the knowledge on hazardous chemicals created with the implementation of REACH is used systematically for the identification of priority substances for the setting of EQS.