



**EEB RESPONSE TO THE
MID-TERM REVIEW OF THE SIXTH COMMUNITY ENVIRONMENT ACTION
PROGRAMME**

(COM(2007), 225 final, 30.4.2007)

General message

EEB believes that the EU has yet to meet expectations on 6EAP's obligations and commitments. Only with climate change, itself a highly important field, has the EU delivered what it promised. Elsewhere, important opportunities have been missed, such as new rules for EU spending, and time was lost in producing the Thematic Strategies. EEB even perceives signs of roll-back, of weakening existing legislation, particularly with waste management and air quality. However, we also note that over the past year, environmental issues have risen up the political agenda, especially when they are related to climate change. EEB hopes this positive trend will continue, and calls on Council and Parliament to reinforce the trend by insisting that the Commission provides a set of initiatives as presented in this paper.

RECOMMENDATIONS FOR COUNCIL AND PARLIAMENT CONCLUSIONS:

EEB calls on environment ministers and the European Parliament to hold a thorough debate on the progress made with environmental policy-making in the past five years. While it is clear that progress has been made on climate change, in other areas the picture remains worrying and the policy proposals are not ambitious enough to prevent further damage to the environment or human health. Environmental policies have been under various pressures, including domination by the Lisbon process (which called for competitiveness-proofing and reduction of burdens for enterprise), a drive for flexibility and soft policies, reluctance by some Member States to agree to a central role for the EU on the introduction of market-based instruments, and insufficient environmental policy integration in economic and sectoral policies.

The Council and the Parliament should in EEB's view call for:

- A more ambitious approach to implementing 6EAP, particularly with natural resources and waste, health and environment, and biodiversity

- A critical approach to better regulation, ensuring that this does not limit actions needed for full achievement of 6EAP's objectives
- Publication without delay of the promised strategy paper on implementation and enforcement, and a major discussion on this paper, between EU Institutions and involving the public
- A major initiative for Environmental Tax Reform. As the Commission's mid-term review suggests, such reform should at least build upon the Open Method of Coordination
- Speeding up preparations for the removal of environmentally-harmful subsidies
- Uncompromised policy steps to ensure the European Council conclusions on Energy and Climate of March this year are fully implemented, while ensuring that the production of biofuels and storage of carbon takes place under strict environmental conditions
- A concerted effort by both Member States and the Council to ensure that the expected financial needs for implementing Natura 2000 are fully covered
- No further weakening of the Council position on the Directive on Air Quality, the rapid publication of new emissions limits for heavy duty vehicles (EURO VI) and ships, and an improved ambition level for the revision of the NECs Directive
- Further steps to ensure that the Water Framework Directive is implemented, particularly regarding water pricing and the removal of priority hazardous substances
- More attention to noise pollution, particularly from vehicles. The urgent need for an ambitious proposal to reduce noise from tyres
- Further work on chemicals, including on classification for hormone-mimicking substances, which should be banned or substituted as soon as possible. Foster the use of bio-monitoring
- Adapt REACH to properly address engineered nano-particles, including through the development of test methods and a classification scheme
- Policies to reduce use of pesticides, including by an EU-wide tax
- Strategic targets for eco-efficiency: increase of overall resource productivity by a factor 4 by 2030 (as called for by the European Parliament this April) and factor 10 by 2050
- The introduction of an EU 'Top Runner' approach without delay. Its general objective should be that by 2010, 12 % of products on the EU market are produced according to sustainability criteria, achieving 100 % by 2030
- 100% green public procurement by 2010
- Re-orientation of waste policies, reverting to requirements laid down in 6EAP, including reduction and stabilisation targets and priority waste stream policies
- Commitment to strengthen and adopt the proposed Directive on Environmental Crime
- A postponement of the revision of the IPPC Directive, while ensuring effective implementation of the Directive

Introduction

This document presents the European Environmental Bureau's comments on the mid-term review of the Sixth Environmental Action Programme (6EAP), as presented by the Commission on 30 April 2007. It calls on the Council of Ministers and the European Parliament to use this review as an opportunity for a critical assessment of how the EU has developed environmental policies over the past five years, whether these policies are a proper response to the obligations and expectations the three institutions laid down in the 6EAP, and what must happen over the coming five years to fully implement 6EAP. This document is intended to offer input to this discussion.

Basis of EEB's response

EEB has a long history with 6EAP. Indeed, it has provided input into the drafting, adoption and evaluation of all EAPs apart from the first. EEB was very critical of the Commission's draft 6EAP in 2001. It considered the widespread absence of substantive targets and deadlines to be a serious weakness, and was concerned about the emphasis on producing Thematic Strategies instead of specific measures, fearing that the ensuing years would be spent on discussion not action. EEB has been active in the decision-making process and saw some of its proposals (whether in full or in part) included in the final result.

During the political adoption process of 2001-2, substantial improvements were made to the 6EAP Decision's text. These reinforced the importance of EU environmental policy's basic principles, as set out in the EC Treaty, referred to as "polluter pays principle, the precautionary principle and preventive action, and the principle of rectification of pollution at source". The substitution principle for dangerous chemicals was also reinforced. Some key ecological objectives, such as halting the decline of biodiversity by 2010, and the aim of respecting critical loads in relation to air pollution, and phasing out hazardous chemicals by 2020, were introduced. And the Decision set a deadline for production of Thematic Strategies.

The Commission was obliged to publish its mid-term review by 22 July 2006. As input to the preparations, EEB asked the Institute for European Environmental Policy to prepare a study about the 6EAP's state of implementation up to early 2006. This study was published in April that year¹. On that basis, EEB produced a position paper which was endorsed by the Green 10² and presented to DG Environment on 1 June 2006³.

EEB regrets that publication of the mid-term review was delayed by around nine months. Its earlier publication might have triggered a more timely debate about the direction EU environmental policy-making is taking, particularly regarding waste and air policies and better regulation.

¹ http://www.eeb.org/activities/env_action_programmes/IEEPFinalReport6EAP-April2006.pdf

² *BirdLife/CAN/ CEE /FoE /EEB/ HEAL/NFI/ /Greenpeace/T&E/ WWF/*

³ http://www.eeb.org/activities/env_action_programmes/20060515-EEB-6EAP-position-revised.pdf

ASSESSMENT OF THE COMMISSION'S MID-TERM REVIEW

General

EEB appreciates the Commission's frankness in saying that: "the EU is not yet on the path of sustainable development", and welcomes the Commission's assumption that "developing and implementing policies which can effectively protect Europe's environment will be at the heart of the 'European project'". EEB generally agrees with the Commission's positive assessment of its work on climate. But the review fails to admit major weaknesses with 6EAP's key tools, the Thematic Strategies and related Framework Directives. In waste policy particularly, the Commission does not defend its changed approach, which has led to a failure to achieve 6EAP's objectives. The 6EAP promised quantitative and qualitative reduction targets covering all relevant waste, for achievement by 2010, leading to a major overall reduction in the volume of waste generated, and it foresaw priority waste-stream legislation. Instead, the waste proposals the Commission has produced are undermining existing waste policies.

Another EEB concern is the high profile the review gives to the 'better regulation' exercise, a product of the Lisbon process, which risks distracting vital attention for better enforcement of existing legislation. From EEB's perspective, 'better regulation' may damage the credibility of existing EU legislation, while it is far from certain that alternative policies will bring more effective environmental protection. The recent waste and air quality proposals are two examples which illustrate EEB's concerns. *And it fears a similar outcome for the [recently-]announced IPPC review process.*

But EEB welcomes several elements of the review: the plea to shift the tax burden from employment to resource and energy consumption and pollution, the commitment to remove environmentally-damaging subsidies, and the initiative for a discussion on rethinking GDP as an indicator of human development and well-being. EEB is also looking forward to the Green Paper on enforcement, which was announced in the review.

Response to 6EAP priorities: Climate Change

EEB generally shares the Commission's evaluation in chapter 4.1. And it recognises that the Commission has taken serious steps to implement 6EAP's climate objectives. But much still needs to be done, particularly:

- Maximum efforts to come to a post-Kyoto global agreement on reductions of greenhouse gases in line with the European Council's March 2007 30% reduction target
- All National Allocation Plans for the second period for CO₂ Emission Trading need to be sufficiently ambitious to ensure that the EU reaches its 2008-12 objective of, on average - 8% greenhouse gas reductions compared with 1990

- In the forthcoming negotiations on how to implement the general 20% renewables target by 2020, all Member States should go for ambitious national targets, so that the 20% becomes the minimum collective outcome and not the maximum
- Everything possible must be done to achieve the political target, as laid down in the Energy Efficiency Action Plan, of 20% increased energy efficiency, leading to around 1% absolute reductions in energy use each year till 2020. To strengthen this, it should be converted to a legally-binding minimum obligation for all Member States
- Member States should fully and promptly implement the Directives on Energy Performance of Buildings, Eco-Design and Energy end-use Efficiency and Energy Services
- The EU should agree on legislation that sets a legally-binding target of 120 g CO₂/km emission for the average private car by 2012, instead of the proposed 130g, given the uncertainty over whether the 10g target can be really met with the soft measures proposed by the Commission. And to give the car-industry a clear signal of the scale of the changes required by setting an 80g/km target for 2016
- An agreement must be reached as soon as possible for the next phase in the CO₂ Emission Trading System, to send the right signal to European industry and electricity producers. And build the future system on auctioning
- Phase out coal subsidies by 2010, when the current regime expires
- Increasing other major environmental problems while applying climate policies should be avoided. So strict environmental conditions should guide and limit the use of both biofuels and CO₂ storage

Response to 6EAP priorities: Nature and Biodiversity

The basic challenge laid down in the 6EAP is halting the loss of biodiversity by 2010. EEB appreciates the publication of a biodiversity strategy in 2006, and supports the Commission's analysis that the policy framework is in place and that better implementation is now the priority, especially concerning Natura 2000. But the Commission has made a crucial strategic mistake in refusing to propose the guaranteed allocation through the various EU funding mechanisms of 50% co-financing of the implementation of Natura 2000 (3 billion per year) from 2007. As a result, it is indeed crucial and is far from clear

Regarding specific implementation priorities, we have several points:

- Financing Natura 2000 is indeed crucial and it is unclear whether existing funding instruments have been up to the challenge. Apart from making better use of existing funds, the priority for the coming years should be to evaluate critically how N2000 has been financed (or not) and to come up with significantly bolder proposals to establish EU funding instruments for biodiversity for the next phase of financial perspectives. Preparations for this will still take place during the second half of the 6EAP
- Completing site designation is indeed a priority but it would be a mistake to think that implementation ends there. Once site designation measures have been taken to afford the sites sufficient legal protection, conservation objectives must be formulated and assessed, monitoring must occur and, most importantly, the Birds and Habitats Directives' species

protection requirements must be better implemented. The last point is crucial as it will lead to better integration of nature protection into the wider landscapes and land-use, an important part of making Natura 2000 a truly functioning ecological network which can better adapt to climate change

On the valuation of ecosystems and biodiversity, this is an important area and much work remains to be done the better to assess the benefits of biodiversity and ecosystems. But even with better-assessed benefits, it should also always be stressed that biodiversity should not be protected just for economic reasons when benefits exceed the costs. There are a number of other reasons to protect biodiversity which can never be monetised but should nevertheless be factored into the decision-making process.

Also, the Soil Framework Directive is not mentioned in the Communication, even though it is another important piece of legislation which would support EU biodiversity objectives. There is a strong case for mentioning it under this chapter.

Response to 6EAP priorities: Health and the quality of Life

The mid-term review mentions four key policies to improve the quality of life in the EU: the Waste Framework Directive, REACH, the Air Quality Directive and the Framework Directive on Pesticides. Unfortunately it does not mention noise at all, an environmental problem which is often underestimated.

Water Framework Directive

Although water is important from a health point of view, we should like to stress that the Water Framework Directive, is just as crucial for protecting the environment and biodiversity. Regarding the 6EAP objective “*to ensure that the rates of extraction from water resources are sustainable over the long term*” it is too early to tell at this stage whether this has been achieved. An EEB survey of the use of the most important instrument to this end, water pricing, indicated that overall very little use has been made of this tool so far and considerable efforts will still be required from both Member States and the Commission to ensure that in the first round of river basin management plans under the WFD, this instrument will be used to its full potential and to all sectors which have an impact on the aquatic environment.

Regarding the 6EAP objective of “*ensuring the integration of the concepts and approaches of the Water Framework Directive and of other water protection directives in other Community policies*”, it is again difficult to tell at this stage to what extent this has happened. The most important policy area into which water policy must be integrated, the Common Agriculture Policy, will be up for further reform in 2008 which provides a good opportunity to achieve greater integration. For example if pillar 1 payments are to be continued, the WFD should become part of the cross-compliance system.

Regarding the objective of “*ensuring a high level of protection of surface and groundwater, preventing pollution and promoting sustainable water use; as well as working towards ensuring*

full implementation of the Water Framework Directive (3), aiming at a good ecological, chemical and quantitative water status and a coherent and sustainable water management”, it remains to be seen whether implementation of the WFD will be a success. Major challenges still lie ahead, such as setting correct class boundaries for water bodies to define the objectives. The real test will be in the quality of the first round of Programmes of Measures and the River Basin Management which will be adopted by 2010. Indications for the quality of these programmes will be, for example, the number of exemptions in time and objectives that are granted, the quality of the public participation processes used to prepare the programmes, and the extent to which the ‘polluter pays principle’ and cost recovery mechanism are extended to all economic sectors which have an impact on water quality.

As for the ‘good chemical status’, the Commission clearly failed to propose any of the announced “*measures aimed at cessation of discharges, emissions and losses of Priority Hazardous Substances*” and ignored almost all relevant provisions of the Water Framework Directive. It even failed correctly to identify the Priority Hazardous Substances as defined in the Water Framework Directive, and to present environmental quality standards for biota and sediment that would define the ‘good chemical status’. The Commission’s mid-term review omits justifying this failure.

EEB calls for:

- Systematic application of WFD’s water pricing requirements
- Through the CAP Health Check, a systematic application of WFD by the agriculture sector
- Good quality of Programmes of Measures and a participatory process
- A definition of ‘good chemical status’ related to WFD
- A mechanism to withdraw authorisation/approval /permits of pollutants/emissions carried out under other legislation in the case of Priority Hazardous Substances
- A legislative proposal for those sources of pollution not yet covered by any legislation and those pollutants not addressed sufficiently in existing legislation. And a continued revision of the identification and prioritisation system used in the past to make use of REACH data in future
- Increased use of bio-monitoring to assess water-pollution and particularly to verify theoretic assumptions under REACH and pesticides approval scheme, and to enable policing of compliance. Otherwise it would be impossible to determine whether improvements are being made

Air Quality

The 6EAP aims to provide “*an environment where the level of pollution does not give rise to harmful effects on human health and the environment*” (Art. 2(2)). It includes the aim of reaching no-exceedance of critical loads and levels for acidification, eutrophication and ground-level ozone. Interestingly, the Commission’s mid-term review does not mention impacts on the environment at all.

The level of ambition set in the Thematic Strategy on Air Pollution falls far short of attaining these objectives as it accepts much too high levels of health and environmental damage in the

EU. Even after implementing the strategy, by 2020 millions of EU citizens will still be exposed to health-damaging levels of fine particles and ozone – these pollutants will still cause some 230,000 premature deaths every year. Similarly, several hundred thousand square kilometers of sensitive ecosystems will still be receiving acidifying and eutrophying deposits in excess of the critical loads, as well as being exposed to ozone which exceeds critical levels for protection of forests and other vegetation. This means that for ozone, over 50 %, and for eutrophication, over 30 %, of the EU's ecosystem area will remain unprotected in 2020.

The related proposal for a Directive on ambient air quality and cleaner air for Europe combines four existing air quality Directives and one decision on the exchange of air quality information into a single legal text. While introducing a new limit value for small particles (PM_{2.5}), the proposal unfortunately also contained elements to weaken existing limit values by exempting so-called 'natural particles' from the air limit values and by granting more time to meet existing and future limit values. Parliament and Council seem to be intent on further diluting the Directive by proposing longer time-extensions and further exemptions to where the limit values apply.

Shortly after publishing the Thematic Strategy, the Commission also proposed new emissions limits for cars and light vehicles (EURO 5). This proposal was far too weak compared with the necessary reductions and while Parliament and Council introduced a second reduction step (EURO 6), emissions of nitrogen oxides in particular will remain far above the levels necessary to make a significant contribution to meeting the above-mentioned air quality limit values.

The Commission's mid-term review mentions that the medium-term priority will be to ensure the effective implementation of these Directive proposals. We welcome this focus on implementation and enforcement. Also, further proposals to reduce emissions at source must be developed. One of the shortcomings of the Thematic Strategy on air pollution was that it was not accompanied by more Directive proposals to reduce pollution.

Above all, a proposal for a revised NEC Directive must be presented as soon as possible. This Directive could become the key law ensuring that the Thematic Strategy's goals are met, as it would set new, binding country-by-country reduction targets for 2020 for the five pollutants addressed in the Strategy. This proposal was originally expected to be presented at the same time as the Strategy (ie by 2004), but is now foreseen by early 2008. The country-by-country ceilings should be made more ambitious to move closer to the 6EAP's objectives. The greenhouse gas reduction targets adopted by the European Council in March 2007 make it easier to increase the NEC Directive's ambition level. A recent report contributing to the impact assessment for the NEC Directive revision shows that combining air and climate policies could bring the incremental cost of complying with the Strategy on air quality down to zero.

A proposal for new heavy duty vehicle standards has still not been presented. More stringent air pollution limit values for these vehicles are urgently needed, because they make a major contribution to the appearance of harmful particulates and nitrogen oxides in towns. In the Environment Council conclusions on the Thematic Strategy on air pollution which were adopted in March 2006, EU environment ministers already urged the Commission to come up with such a proposal as soon as possible.

Other Directive proposals, as well as strengthening existing Directives, are also needed. This concerns the already announced proposal to reduce VOC emissions from petrol stations as well as much-needed further reductions from shipping emissions.

In summary, EEB calls for:

- No dilution of the Council position on the Directive on Air Quality
- An ambitious NEC revision
- An urgent proposal for new heavy duty vehicle standards
- Proposals to further reduce reductions of shipping emissions, and VOC emissions from petrol stations

Noise

Noise is covered in the 6EAP, but it is not referred to in the Commission's mid-term review. The Communication on the 6EAP of 2001⁴ states that noise in Europe is estimated to affect the health and quality of life of at least 25 % of the EU's population. It raises stress levels, disrupts sleep and can increase the risk of heart disease. Much of the problem relates to transport and construction activity including cars, lorries, aeroplanes and construction vehicles and equipment. One of the 6EAP's aims is therefore to substantially reduce: *"the number of people regularly affected by long-term average levels of noise, in particular from traffic which, according to scientific studies, cause detrimental effects on human health and preparing the next step in the work with the noise directive"*. (Art 7.1). This will be done by: *"supplementing and further improving measures, including appropriate type-approval procedures, on noise emissions from services and products, in particular motor vehicles including measures to reduce noise from the interaction between tyre and road surface"* (Art 7.2 (g)).

Implementing the Environmental Noise Directive (2002/49/EC) alone is not enough to meet the 6EAP's objectives.

Tackling the sources of road traffic noise (vehicles, tyres, road surfaces) is regarded as being considerably more cost-effective than roadside measures, such as insulation or noise barriers. One very effective measure to reduce noise is strengthening limit values for tyre noise in Directive 2001/43/EC (relating to tyres for motor vehicles). Tyres show significant noise reduction potential: almost all passenger car tyres currently on the market produce noise levels well below the current limit values (under type approval test conditions). A study by the Forum of European National Highway Research Laboratories (FEHRL) submitted to the Automotive Unit of DG Enterprise in May 2006, estimated that the total benefits of strengthening the limit values (2010-22) are in the range: €48 billion - €123 billion. Compared to that, the costs falling on tyre manufacturers are estimated (by the industry) at a maximum of €2 billion per year. Despite being a very effective measure, the revision of this Directive has already been postponed several times. Originally the Directive announced that the tightened limit values would be effective from 2007.

⁴ COM/2001/0031 final

Vehicle noise in general is also a serious problem which is not being tackled in earnest. While limit values for passenger cars have nominally been tightened, in practice cars have not become any quieter in over 30 years. This is due to adaptations in the test cycle for vehicle certification, which does not accurately reflect real-life driving conditions. The EU regulation on vehicle noise follows Regulation N°51 of the United Nations Economic Commission for Europe (UN-ECE) which harmonises rules for road vehicle sound emissions. This Regulation is undergoing a review procedure for the test cycle. EEB calls on the Commission to insist that the test cycle be adapted without further delay, to reflect noise levels in real driving conditions (including motorway and urban driving). The Commission should also propose to revise the limit values to a level which would reduce road noise emissions effectively – with the first revision as soon as the test method is clarified. Subsequent revisions should also be outlined to forewarn industry and stimulate innovation.

Finally, in the context of the Environmental Noise Directive, the first environmental noise maps are due to be submitted to the Commission and EEA this year, and to be followed up by noise action plans in 2008. It is very important that enforcement of this Directive is ensured, particularly to provide residents with information on noise exposure levels and to enable the effective future development of European noise policy supported by the data collected. A review of this Directive should come out in 2009. EEB calls on the Commission to take into account WHO's latest noise-related findings as specified in the 6EAP: *“The aims set out in Article 2 should be pursued by the following objectives, taking into account relevant World Health Organisation (WHO) standards, guidelines and programmes” (Art. 7.1).*

In summary, EEB calls for:

- Further measures to reduce noise pollution at source to help manage local noise problems. It is therefore high time that the Commission proposes an ambitious strengthening of tyre noise limit values
- More active role in improving UN-ECE Regulation in environmental terms
- Full enforcement of the Environmental Noise Directive and a review taking into account the latest scientific findings on noise and health

Chemicals

The objectives for chemicals in the 6EAP contain the one generation goal to stop using chemicals in ways that *“that do not lead to a significant negative impact on health and the environment”* by 2020. It is unlikely that this will be achieved with REACH, as the important provisions are likely to be far too slow in even requiring the authorisation of the most dangerous substances. Substitution of *“chemicals that are dangerous”* by *“safer chemicals or safer alternative technologies”* is another important objective that REACH is unlikely to fulfil. One important measure that has not yet been proposed is the *“provision of an early warning mechanism for new or emerging problems”*.

The 6EAP had quite specific commitments regarding a new chemicals policy, derived from the parallel work on the White Paper leading to REACH in 2000. The Commission's mid-term

review does not assess whether these commitments have been achieved. EEB considers there to be serious weaknesses in the final REACH regulation.

The Commission proposal for REACH addressed most of the promises such as the reversed burden of proof envisaged in the 6EAP as well as “generating knowledge about all chemicals and assessing risks of their use”. REACH also represents a “coherent system based on a tiered approach excluding chemical substances used in low quantities”, though in REACH the quantity is not defined per chemical, but per chemical coming from one producer. As promised in the 6EAP, REACH understands by “substances of very high concern” (SVHC) the CMR substances and includes even all PBTs, vPvBs as well as endocrine disruptors under this definition. However, the measures required for this group of undesirable substances are unclear. So far the results of the risk-assessments will not be automatically taken into account in other areas, such as the protection of water or the EU eco-label scheme. Whether or not all the information relevant for environment and human health will indeed be publicly accessible remains to be seen.

REACH has an extended time schedule and will not automatically deliver its undertakings on its health and environmental objectives. This will be a question of interpretation during implementation and also when it comes to the revision of crucial elements, for instance regarding endocrine disruptors or the manufacturer’s risk assessment (CSA) for lower-volume substances.

EEB welcomes the Commission’s statement that it might assess: “*the cocktail effect of chemicals*”, as measures to address this are urgently needed. EEB hopes that the Commission’s future work on “*public information on environmental pollution and adverse health impacts*” will give rise to improved control measures.

EEB calls for:

- Forbidding any further exemptions from the scope of REACH
- Proceeding with development of classification for hormone-mimicking substances and clarifying that REACH does not pretend these substances can be “adequately controlled”.
- Adapt REACH to properly address engineered nano-particles, including development of test methods and a classification scheme
- Improve the requirements for lower-volume substances in the review in 2012 to allow their proper classification according to the GHS

Pesticides

As the 6EAP promises, the proposed regulation to replace the current approval scheme includes a “*comparative assessment*”. But the proposed Directive that accompanies the Thematic Strategy does not provide for “*reducing the levels of harmful active substances including through substituting the most dangerous with safer, including non-chemical, alternatives.*” The proposal will only be able marginally to minimise the ‘hazards’, and “controls on the use and distribution of pesticides” are not improved or linked to, for instance, water-protection legislation. In the Commission’s mid-term review the 6EAP’s ambition to “*ensure a high level of protection*” has been replaced by a less ambitious-sounding: “*limiting environmental threats to human health*”, which also, as with air quality (see above), skips over threats to nature. Active substances used in

pesticides often have neurotoxic and immunotoxic effects even on people, but probably also on the environment and possibly on bees, and a solution for these must be found immediately to prevent huge losses – both financial losses and losses of environmental quality and in terms of human health

EEB calls for:

- The use of the comparative assessment to ban active substances with low performance from an environmental or health point of view. The assessment needs to address the ‘cocktail effect’ as these are well-known for pesticides and even used deliberately, ie exploited commercially
- Financial instruments such as an EU-wide tax on certain actives to reduce the use of pesticides
- EU-wide indicators to measure and then reduce the dependency of the EU’s agriculture on pesticides – building on use by many Member States of some form of the Treatment Frequency Index (TFI)

Response to 6EAP priorities: Natural Resources and Waste

This is the field where EEB has most concerns with the direction the Commission has chosen and the progress made. In the field of natural resources, management progress has been slow. Regarding waste, EEB sees a change for the worse. The mid-term review report identifies the main policy mechanisms addressing natural resource use and waste management: the Thematic Strategies on Waste Prevention and Recycling and on the Sustainable Use of Natural Resources, the Framework Directive on Waste and the anticipated Sustainable Consumption and Production Green Paper. It states that, taken together, these mechanisms form the backbone of the policies that will help deliver the 6EAP objective of “better resource efficiency and improved resource and waste management, to help bring about more sustainable patterns of production and consumption”.

The mid-term review does not quote a key 6EAP objective: “*achieving a significant overall reduction in the volumes of waste generated through waste prevention initiatives, better resource efficiency and a shift towards more sustainable production and consumption patterns*”.

Nor does it re-state the agreement to develop: “*a set of quantitative and qualitative reduction targets covering all relevant waste, to be achieved at Community level by 2010. The Commission is invited to prepare a proposal for such targets by 2002*”.

Nor does it refer to the agreement of continuing work with legislation on priority waste streams, including biodegradable waste. These omissions are important because the Commission has in practice changed its approach and does not follow the 6EAP. It continues to refuse the elaboration of a bio-waste Directive, and its Thematic Strategies and connected Framework Directive is undermining existing waste policies.

Specifically, EEB does not believe the current approach respects the 6EAP, because:

- The Thematic Strategy on Waste Prevention and Recycling (TSWPR) did not strengthen or broaden the approach of existing legislation to include other waste sources or materials. Instead, its actions focused on a renewed emphasis on implementing existing legislation on landfills, having nothing to do with waste prevention or recycling, and simplifying legislation as part of the ‘better regulation’ drive without making reference to how these would advance waste prevention or recycling
- Both the TSWPR and the proposal on the Framework Directive on Waste introduced lifecycle thinking into waste management policy as a concept, but without spelling out how lifecycle thinking on resources would be linked to waste management or the hierarchy. This unfortunate gap between theoretical presentation and practical implementation was not recognised, and was made worse when linked with the idea of using lifecycle tools to justify deviation from the proposed ‘simplified’ three-step hierarchy. This simplified hierarchy was already a weakened form of the established ‘five-step’ version since it put waste recovery on the same level as recycling and composting
- Supposedly ‘ambitious’ waste prevention policies were proposed through national waste prevention programmes, without ever mentioning prevention targets at national or EU-level. Rather than redoubling efforts to engage Member States in activities on waste prevention through a structured process such as the identification of an EU-level target, the Commission proposed national programmes in the hope that they created a harmonised EU approach
- Recycling, which is an established and more widespread activity than prevention, also had no EU-level target, nor any indication of how recycling would be addressed beyond the existing Directives and beyond municipal waste. Instead, the Thematic Strategy provided a holding response on recycling, saying that “new ways to foster recycling” would be sought
- The Thematic Strategy on the Sustainable Use of Natural Resources (TSSUNR) similarly lacked substantive proposals providing clear objectives and the means to achieve them. In this respect alone, it did not meet 6EAP’s requirements. A low-profile approach of information-gathering and voluntary activities was adopted, thus generating a strategy lacking in ambition, quantified targets, timetables and specific policy measures for sustainable resource use

EEB calls on the Council and Parliament to demand that the Commission return and deliver the 6EAP objectives by means of the anticipated Green Paper on the Sustainable Consumption and Production Action Plan. The Action Plan is being presented as a way to strengthen synergies between existing policy mechanisms, and creating new ones that provide a more comprehensive approach or create a clearer path for future environmental improvements. One of the key existing concerns is that there appears to be far more focus on the production half of the Action Plan, possibly because there are few ideas on how to address the consumption half. To avoid the ‘rebound effect’ as is seen in many policy areas in which efficiency gains have been prioritised, the Action Plan will need to address very directly and robustly the necessary changes in

consumption behaviour. In particular, advertising messages promoting unsustainable behaviour and consumption patterns will need to be a key focus.

EEB also calls on the Council and Parliament to insist on the following measures to return to and deliver the 6EAP:

- Strategic, quantified targets for resource efficiency: increase of overall resource productivity by a factor 4 by 2030 (as called for by the European Parliament this April) and factor 10 by 2050. These targets must then be used to assess the measures needed and to give EU Institutions a mandate to act
- Introduce dynamic, standard-setting schemes in the EU which address environmental and performance requirements of products and services in an integrated manner, along the lines of the Japanese 'Top Runner' approach
- Ask the Commission to initiate an EU 'Top Runner' approach without delay, beginning with the products addressed in the Ecodesign in Energy-Using Products Directive and extending to all future product-related policies. Its general objective should be that by 2010, 12 % of products on the EU market are produced according to sustainability criteria, achieving 100 % by 2030
- Introduce broader product policy legislation, identifying environmental issues, linking these to targets for eco-efficiency and environmental and performance requirements, and incorporating producer responsibility. Include product information for public requirements
- Develop EU and national programmes aiming to achieve 100% green public procurement by 2010
- Strengthen EU waste policies, particularly prevention, re-use and material recycling. Develop EU-level targets on waste prevention and recycling, beyond municipal waste. Resist the temptation to see waste as an energy resource. Refuse to reclassify municipal waste incineration as recovery
- Continue development of priority waste stream policies, and where possible build on the producer responsibility approach and promote prevention, re-use and material recycling as a priority

Better regulation, better integration, better enforcement

Better regulation was not mentioned in the 6EAP. It is a concept which stems from the Lisbon process. That is why it is often connected with the aim of reducing administrative and regulatory burdens on business. EEB see this one-sided view as the wrong starting point. Effective environmental policies are necessary to ensure the longer-term viability of our societies and economies, and increase the productivity of the working population without the unsustainable depletion of resources. Better regulation should therefore concentrate on unambiguous rules and standards, legislation linked to agreed objectives, and better enforcement (also to increase the credibility of legislation and ensure level playing fields the actors concerned). Better regulation should ensure that impact assessments have a strong environmental and quality-of-life dimension and that the potential cost of inaction is taken into account. And better regulation should include public participation to increase quality and acceptance and mobilise the public in its enforcement.

The Commission's mid-term review gives a much better presentation of what better regulation should mean. Indeed, using the market more to deliver environmental results is an objective that EEB shares. On that aspect, EEB is slightly disappointed about the modest nature of the Green Paper on Market Based Instruments for environment and energy-related policy purposes. While this paper certainly opens discussions on a range of important issues, it fails to produce clear proposals which would have speeded up the decision-making process. EEB is glad that the Commission's mid-term review more clearly promotes "shifting the tax burden away from areas the EU is trying to promote, such as employment, and onto resource and energy consumption and/or pollution." But EEB warns against replacing emission limits with trading, when such emissions have local impacts. EEB is therefore concerned about such ideas in relation to the announced IPPC review. Another positive point in the mid-term review is the emphasis on cooperating with civil society. EEB warns that cooperation is more than collecting opinions by means of internet surveys.

EEB has nothing against streamlining reporting requirements as long as it does not lead to peaks in administrative burdens which could entail reduced quality of reporting and, it warns against shifting reporting burdens from economic actors to public administrations. EEB warns that having enough and sufficiently-qualified personnel in Member States will remain important for proper enforcement

EEB also appreciates the initiative of having a (new) discussion on which indicator can present progress towards sustainable development better than GDP.

The Commission's mid-term review notes that "implementation of environmental legislation remains far from satisfactory", which is a precondition for realising environmental objectives. Indeed, "effective implementation is also a key element of the Better Regulation agenda and is needed to avoid a distortion of competition and to keep the single market running smoothly."

EEB therefore calls on the Council and Parliament to choose a genuinely better regulation approach, based on:

- a) Ensuring systematic enforcement of EU environmental legislation throughout the EU:** This is essential to gain credibility for such legislation and ensure a level playing field for economic actors. The Commission should invest far more resources in controlling not only formal transposition but also actual enforcement. It should also work much more with citizens who have alerted the Commission to alleged violations of EU legislation
- b) Adopting a Directive on Environmental Crime:** The Commission presented a proposal early this year. EEB will publish specific comments later this month
- c) Supporting a major initiative for Environmental Tax Reform:** Apply environmental fiscal reform (taxation and subsidies reform) throughout the EU, with as much coordination/leadership at EU level as possible. As the German Environment Ministry proposed at the Informal Environment Ministers Council in Essen on 2 June, use the Open Method of Coordination for this purpose. Aim for a 10% shift away from labour

taxes to taxes related to environmental performance of goods and services, over a ten-year period.

- d) **Making progress in removing environmentally-harmful subsidies:** The Sustainable Development Strategy requires the Commission, by 2008, to produce a roadmap for the reform and elimination of environmentally-harmful subsidies. This process runs the risk of delay as it is still politically sensitive and lacks the necessary staff and resources to support it. Therefore, the deadline should be more precisely defined and resources made available to deliver meaningful proposals. The roadmap should be ready for discussion by the 2008 Spring Council
- e) **Showing urgency for legally-binding targets for sectoral policies:** As the IEEP report shows, in many cases the Commission fails to propose or the EP and Council fail to adopt or implement, environmentally-meaningful and legally-binding targets and timetables for key sectors, including waste, chemicals, fisheries, agriculture and transport, as well as natural resource use
- f) **Giving preference to legislation with clear and enforceable environmental objectives:** To close existing protection gaps, especially in marine environment and soil, preference should be given to legislation with clear and enforceable objectives. It is the only credible instrument to provide citizens with meaningful rights and to achieve 6EAP's objectives. Framework Directives without commonly agreed and enforceable targets risk becoming unworkable bureaucratic 'paper tigers', which harm the EU's public credibility. Delegation of decision-making to the Commission (comitology) or private business (standardisation) must be designed more carefully to avoid lack of democratic legitimacy and the public's increasing lack of trust in the EU. Thematic Strategies should not be an end in themselves, without specific action they cannot achieve the 6EAP objectives as they are required to.
- g) **Strengthening the environmental dimension of impact assessments:** particularly also to better explore the environmental advantages of pro-innovation policies, the costs of inaction and the socio-economic and environmental benefits of environmental policies
- h) **Applying the IPPC Directive in a more systematic and ambitious manner:** Ensure effective implementation of the Directive, foster sharing of best practice regarding permitting and help Member States to strive for best practice in seeking effective public participation. Do not engage in a revision of the Directive in the near future and underline the importance of environmental quality legislation in combination with IPPC

Conclusions

EEB regards the key findings of its 2006 position paper generally still to be valid, albeit that in the meantime the already positive assessment on climate and energy has been significantly strengthened.

- EEB remains concerned about the value of several of the Thematic Strategies and the delays their preparation and discussion have cost for really effective policy-making
- EEB remains concerned about the emergence of Framework Directives which focus on reporting and process, while delegating regulatory decision-making to comitology and co-

regulation (standardisation), rather than on common targets and deadlines. In fact, EEB sees in the fields of air quality and waste policies a risk that new legislation will be less ambitious and potentially effective than the legislation it replaces

- EEB remains concerned about the lack of systematic integration of environmental requirements into other EU policies, as required by Article 6 of the Treaty and re-emphasised in the 6EAP. It is clear that regarding the energy sector, important positive developments have taken place in the past two months. This has still to happen with transport (the Barroso Commission even stepped back from decoupling and modal shift objectives), regarding agriculture there is still much to be done, and an environmentally-sound tourism policy, a priority of 5EAP, is no longer spoken about. The Integrated Impact Assessment the Commission introduced in 2003 has yet to deliver much for the environment
- EEB is disappointed at the limited progress in using market-based instruments, with the important exception of the start of the CO₂ Emission Trading Scheme. The Green Paper to launch a further debate on such instruments is a start, but EEB had expected the Commission to come up with bold proposals rather than a menu. The EU still lacks a policy on the removal of environmentally-hazardous subsidies
- EEB remains concerned about the lack of enforcement. This is a responsibility for individual Member States in the first instance. But the Commission is responsible for holding Member States to their obligations. There are too few resources and too little speed devoted to this. Interested citizens have too few means to play a role in enforcement and are often not systematically encouraged to do so

The 6EAP review cannot, therefore, just be a 'technical routine', but must serve as the basis for an honest and transparent political debate about the future of the EU's environmental agenda, involving a wider interest group