

**EEB MEMORANDUM  
TO THE LUXEMBURG PRESIDENCY**

JANUARY 2005

Addressing:

The European Council

The General Affairs Council

The Agriculture and Fisheries Council

The Transport, Telecommunications and Energy Council

The External Relations Council

The Economic and Finance Affairs Council

The Competitiveness Council

The Environment Council

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

Millennium Declaration, European Council, Helsinki, 11 December 1999



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## Introduction

On the 1<sup>st</sup> January 2005, Luxembourg took over the responsibility of leading the European Council and the EU Council of Ministers. This Memorandum with its Ten Green Tests presents the principal ideas and demands of the European Environmental Bureau (EEB), a federation of more than 140 environmental citizens' organisations across Europe, for the Luxembourg Presidency.

The Memorandum has been produced by the Board and staff of the EEB with contributions from Climate Action Network Europe. In the Memorandum, we state our goals for the Presidency with recognition of what it is feasible to achieve during a six-month term.

During the Luxembourg Presidency, the European Council has two very important discussions on its agenda. In March it is expected to take decisions on how the Lisbon process, aiming to make the EU the most competitive economy of the world by 2010, should be strengthened. Industry federations have been campaigning for a narrow pro-growth agenda, for the introduction of competitiveness proofing for all future EU policies, and for removal of social and environmental "burdens". This approach has gained some political support, but it would be disastrous for the EU and the rest of the world if it were followed. The EEB is therefore encouraged by statements of representatives of the Luxembourg government, and in particular its Prime-Minister Juncker, that it sees the way forward in encouraging greater synergy between economy, social affairs and the environment. It hopes that the Commission and the Presidency will both take good note of the analysis of the Kok High Level Group, which showed that there is a clear potential in environmental policies for economic growth, and that market incentives need to be directed towards fostering eco-innovation. In February, the EEB and its Luxembourg member Natura, plan to organise a discussion in Luxembourg, under the patronage of Prime-Minister Juncker, to give a concrete response to the Commission's proposals for the Spring Summit. It is looking forward to active involvement, at ministerial level, from the Luxembourg Presidency.

The other discussion that stands out is on the Financial Perspectives at the June European Council. The outcome of this debate will show whether the European Union is prepared to put its money where its ambitions, as laid down in the new Constitution, are. For the EEB the largest budgets are not necessarily the best ones, with the exception of nature conservation, where definitely more EU-commitment is needed. Most important is the quality of expenditure, the objectives, conditions and quality controls.

Luxembourg has joined a group of 4 Presidencies in an effort to reduce the administrative burden of EU regulations. The EEB hopes that this ambition is not a wolf in sheep's clothing, a disguised attempt to weaken environmental rules that have been adopted to protect the health and wellbeing of Europe's citizens and the environment.

This Memorandum opens by highlighting the EEB's main priorities: the Ten Green Tests for the Luxemburg EU Presidency. These tests and the other points in the Memorandum are directed to the Luxemburg Presidency as a whole, not just to the Environment Council. There are tasks for the European Council, the Councils for General Affairs and Economic and Financial Affairs, the Transport, Telecommunications and Energy Council, as well as the Councils for Agriculture, Competitiveness, and naturally, the Environment Council. In June, at the conclusion of the Presidency, the EEB will evaluate the performance of the Luxemburg Presidency and the EU with regard to the Ten Green Tests.

The EEB recognises that a Presidency cannot make things happen on its own. In most cases, it needs proposals from the Commission, action by the Parliament, and the co-operation of the other EU governments. A Presidency, however, has considerable influence by what it puts on the agenda, how it prepares for discussions, and what special events it organises.

John Hontelez  
Secretary General  
The European Environmental Bureau

## **TEN TESTS FOR THE LUXEMBURG PRESIDENCY**

### **1. GREENING THE LISBON PROCESS**

Ensure this Process is explicitly coherent with the commitments and objectives laid down in the EU Sustainable Development Strategy and the 6<sup>th</sup> Environmental Action Programme.

- Make eco-innovation and absolute de-coupling of economic growth from material flow (knowledge based growth) the guiding principle for strengthening EU's economy.
- Launch concrete initiatives for green public procurement and for environmental fiscal reform.
- Implement the 2003 Spring Summit demand for "the reform of subsidies that have considerable negative effects on the environment and that are incompatible with sustainable development".

### **2. CLIMATE CHANGE**

- Agreement on an EU post-Kyoto GHG reduction target of 30% by 2020 as compared with 1990 and 80% by 2050.
- Adopt ambitious Directives for Eco-Design and for Energy Services for Demand-Side Management.

### **3. ENVIRONMENTAL QUALITY OF FINANCIAL PERSPECTIVES 2007-2013**

- All relevant expenditure should promote sustainable development and implement article 6 of the EC-Treaty.
- Environmental sustainability requirement for cohesion policy should be strengthened, not weakened.
- Implementation of Natura 2000 should be guaranteed with sufficient dedicated funding.
- No decrease of the role of the European Parliament in budgetary decisions, the Regulations for the specific budgetlines need to be adapted for this purpose.

### **4. A STRONG EU CHEMICALS POLICY WITHOUT FURTHER DELAYS**

- Maintain speed of work in order to allow political agreement by the end of 2005.
- Avoid any delays through further impact assessments.
- Seek a breakthrough on key problems of REACH, including:
- An effective authorisation procedure leading to the identification and phase out of all very high concern chemicals by 2020, by implementing a clear obligation to substitute those substances;
- Quality assurance of industry information, with at least 5% of registration dossiers to be evaluated by national authorities;

- Access to information in line with the Aarhus Convention and information flow for dangerous substances in articles down the supply chain.

## **5. SUPPORT THE AARHUS CONVENTION**

- Start the Council work on the draft Directive on Access to Justice, as a precondition for ratification of the Aarhus Convention by May 2005;
- Presuming the EP reconfirms its positions in first reading, seek Council agreement on the Regulation on application of the Aarhus Convention by the EU Institutions in coherence with the EP Position.
- Support the inclusion in the Convention of public participation of GMO-related decisions as a legally binding requirement.

## **6. RURAL DEVELOPMENT**

- Ensure that pillar 2 is strengthened substantially via increased modulation and is budgeted for in the new Financial Perspective. Rural development should become the core of the CAP in the long-term.
- Insist that agri-environmental measures remain compulsory in all EU member states, are available across the EU territory and promoted by favourable co-financing rates.
- Environmental criteria must be integrated across all Rural Development measures.
- Ensure flexibility regarding Article 69 of the Mid Term Review in order to allow extensive use of the article in the Member States.

## **7. PROTECTION OF GROUNDWATER FOR FUTURE GENERATIONS**

- Ensure protection of remaining pristine groundwater by introducing special protection zones or a high chemical status classification.
- Maintain existing Groundwater Directive requirements for preventing the input of hazardous substances and improve them with substance identification, emission control and reporting actions on national and EU level. Those measures should be aligned with the Water Framework approach to priority substances and have priority over harmonised standard setting.

## **8. STRICT CONTROLS OVER WASTE SHIPMENTS**

- Tighten the rules against sham recovery and give maximum scope to national authorities' objections. Strengthen the obligations as regards ships as waste.
- Ensure that the use of the OECD and EU hazardous waste lists be given equal hierarchical footing to the Basel list and retain the Commission's proposed specific obligations as regards Animal By-products, POPs, and add obligations on asbestos.
- Require all waste shipment notifications to be made publicly available and ensure NGO access to national correspondents meetings.
- Require financial guarantees before shipment to be established and legally binding at the time of notification, with no derogation for operations covered.

## **9. CONTROL AIR POLLUTION FROM SHIPS**

- Achieve Council agreement in line with European Parliament position, notably by introducing a second reduction step, further decreasing the sulphur content of maritime fuels to 0.5% and extending the geographic coverage to the Mediterranean Sea and the North East Atlantic.
- Encourage Member States to ratify MARPOL Annex VI and to co-ordinate their positions in IMO with the aim to promote further emission reduction.

## **10. EU STRATEGY ON MERCURY**

- Work towards an early phase out of mercury use and elimination of its emissions in the EU, as well as towards preventing the export of mercury to developing countries.
- Launch immediate action to temporarily store the mercury from decommissioned chlor-alkali plants, with the ultimate intention of a permanent retirement.
- Give EU support for a decision at the coming UNEP Governing Council on development of a global new, binding, instrument to address mercury.

## 1. ALL COUNCILS

### 1.1. Apply Article 6 on Environmental Policy Integration

Article 6 of the Community Treaty says: "*environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development*".

In Cardiff, June 1998, the European Council decided that specific Councils had to develop strategies to implement this new article, to integrate environmental consideration into its sectoral policy decisions. In the years that followed, the European Council obliged all other Councils to follow, and took note of progress. However, the quality of the strategies was rather poor and the European Council failed to give more strict guidance, until the Spring Summit of 2003, when it asked the Council to:

- develop overall and sector-specific decoupling objectives
- improve environment-related structural indicators
- monitor progress
- identify best practices.

We have seen this demand being neglected by the Council, and even worse is that the European Council of Spring 2004 did not react to this failure. It seems there is more and more tendency to leave the responsibility for article 6 implementation to the Commission, while the article does bind ALL EU policy making institutions.

Since 2003, the Commission has a new tool, the Impact Assessment, which potentially could help implementation of article 6 (among other things). First evaluations, by the Institute for European Environmental Policy and the EEB itself, show serious shortcomings and a bias towards business impacts rather than the impacts for society as a whole.

*The EEB calls upon the Presidency to:*

- *work in all councils to systematically apply article 6, and report on this in the council's conclusions*
- *invite the following UK Presidency to work together and finalise a critical assessment of the performance of the Council of Ministers with regards to the Article 6 and Cardiff obligations, establish clear objectives and benchmarks and indicators for environmental policy integration for the individual Councils, and to respond to the other requirements tabled by the Spring 2003 Summit as well*

- *develop a serious quality check of the Impact Assessment procedures followed by the Commission and prompt action to stimulate a balanced assessment of impacts across the three dimensions: environment, social and economic.*

EEB letter to Competitiveness Council, November 2004:

<http://www.eeb.org/activities/integration/comp-council-11-19-04.pdf>

Report on 1 Year of EEB's project on Article 6 Watch:

<http://www.eeb.org/activities/integration/Article6watch-report-to-member-june04.pdf>

All EEB Integration documents can be found at:

<http://www.eeb.org/activities/integration/Index.htm>

## **2. THE EUROPEAN COUNCIL, GENERAL AFFAIRS COUNCIL**

### **2.1. Make Sustainable Development the Overreaching Goal of the Lisbon Strategy**

The 2005 Spring Summit is to decide on the direction and the steps to take to revitalise the Lisbon process, aiming to promote economic growth and social objectives.

For the EEB one demand is that the Lisbon strategy becomes an integral part of the longer term Sustainable Development Strategy of the EU. We do not want integration in the sense that that Strategy is being absorbed by the Lisbon Process, but quite the opposite.

Furthermore, it is essential that the environmental dimension of sustainable development is emphasised once more, as nowadays there is a tendency to see sustainable development more in narrow economic terms, whereby environment, in the perception of influential players, turns from an essential precondition into a barrier.

The EEB deplors that the review of EU's Sustainable Development Strategy is delayed due to inaction of the previous Commission. Nevertheless, this Strategy should be considered as an important reference for the Lisbon process. Short-term economic policy drivers should contribute to the implementation of the objectives of that Strategy, not complicate or frustrate these.

The EEB expects the Presidency to lead the European Council in the spirit of its conclusions of the 6<sup>th</sup> November 2004, which "reconfirmed the validity and relevance of the process it set in motion in Lisbon in March 2000 aimed at enhancing substantially the competitiveness of European economies through a balanced strategy with an economic, social and environmental dimension".

*In particular, the EEB calls upon the Presidency to:*

- *take the key objectives and requirements from the existing Sustainable Development Strategy explicitly into account when proposing actions in the framework of the Lisbon process. The Lisbon process should contribute to the EU policies on climate change, mobility, public health, biodiversity and resource use*
- *make use of the work done for and by the July 2004 informal Environment Council, which was for a large part devoted to eco-innovation, under the title: 'Clean, Clever, Competitive'. The underlying research, workshops and papers offered a wealth of information and examples on business initiatives, barriers, policies and instruments that enhance eco-innovation. This Council concluded*

*that a mix and combination of instruments is needed: subsidies, loans, fiscal facilities, regulation, benchmarking, procurement, green taxes and funds can all contribute. We underline that this perspective is much broader and further reaching than that of ETAP (Environmental Technology Action Plan), and it would be a mistake to just park this whole issue in the ETAP process*

- *make use as well of the proposals developed by the coalition of EEB, ETUC and Social Platform in particular their manifesto "Investing for a Sustainable Future" (November 2003). Major investments are needed to achieve sustainable development, and the proposals made for the housing and transport sector need a political response, as they promote economic, social and environmental achievements. We also call upon the Presidency to launch a campaign to use public procurement systematically for environmental purposes*
- *recognise and integrate our global responsibilities. The economies of the USA, India and China probably pose a bigger threat to EU society because of their climate impact than they do in terms of competitiveness. The EU should vigorously promote and develop sustainable production and consumption, leading by example and offering high quality eco-efficient products and services that are also attractive for the big economies outside Europe in curbing their environmental impacts in a way that does increase well-being and quality of life*
- *invite the Environment Council to play a role of equal weight in the Lisbon process to that of ECOFIN and the Competitiveness Councils. Invite the Environment Council for that purpose to set up a permanent Committee of high-level officials*
- *set the right framework around the concept of "competitiveness". It should be considered as a tool to achieve a range of objectives (including environmental and social) and not an end in itself. Resist any attempt to make "competitiveness proofing" into a separate and dominant criterium in Impact Assessment.*

The EEB considers the report of the High Level Group chaired by former Prime Minister Wim Kok as having several important proposals that could contribute to a Lisbon process that indeed works for the environment as well.

*In the light of this report, the EEB calls upon the Presidency to:*

- *reconfirm the conclusion of the report that environmental protection is a core objective for the EU and a key value in its own right, and has at the same time large potential as a driver of economic innovation*

- *develop an action plan to follow up the conclusion of the report that 'Establishing an appropriate regulatory framework to allow eco-innovations to be taken up in markets is essential. Nowadays prices are distorted in some markets, leading to a misallocation of resources and creating disincentives for investors and buyers to participate. Market prices need to reflect the real costs of different goods and services to society. This requires gradually removing environmental harmful subsidies and including progressively externalities in prices, taking account of other policy objectives such as competitiveness in the global economy and social aspects.' This action plan should contain specific proposals on how to stimulate the demand for environmental innovations through market-based instruments, better implementation of EU's existing environmental regulation and new regulation*
- *build upon the Kok groups' calls for specific investment promotion policies, including tax exemptions for green investment funds, as practised in the Netherlands*
- *start a specific initiative for greening public procurement, which is also explicitly recommended in the report. This initiative should however not only focus on the energy and transport sector, but also on construction, electronic products, food products etc.*

EEB contribution to discussion on Future of the Lisbon Process, the contribution of the Kok Group  
[http://www.eeb.org/activities/sustainable\\_development/EEB-KOK-RESPONSE-FINAL-VERSION-11-17-04.pdf](http://www.eeb.org/activities/sustainable_development/EEB-KOK-RESPONSE-FINAL-VERSION-11-17-04.pdf)

EEB comments towards EU action on the 10 year Framework of Programmes for Sustainable Consumption and Production (the Marrakech process)

[http://www.eeb.org/activities/sustainable\\_development/EEB-comments-EUSCP-strategy-Oostend-November2004.pdf](http://www.eeb.org/activities/sustainable_development/EEB-comments-EUSCP-strategy-Oostend-November2004.pdf)

Green Eight Review of the EU Sustainable Development Strategy – What happened to the 80 Commitments?

[http://www.eeb.org/activities/sustainable\\_development/Green8-review-of-SDS.pdf](http://www.eeb.org/activities/sustainable_development/Green8-review-of-SDS.pdf)

"Making the Best of Public Money" a guide to implement the new public procurement Directives (http: //www.eeb.org/activities/public\_procurement/Practical-Guide-Public-Procurement- Final-November 2004.pdf)

## **2.2. Climate Change**

Following the long awaited Russian ratification, the Kyoto Protocol on limiting climate change will enter into force during the Luxemburg Presidency. This is a huge diplomatic victory for the European Union and this happy development directly leads to renewed calls for the EU to deliver on the European Climate Change Program towards its Kyoto targets and for strong leadership on the international climate regime post 2012.

The Presidency will lead a discussion at the Spring Council about further reductions in greenhouse gas emissions by the EU in the framework of preparing a global agreement post-Kyoto.

*The EEB and Climate Action Network (CAN) Europe call upon the Presidency to:*

- *deliver strong medium and long-term targets for EU in line with keeping global warming below the EU 2-degree pre-industrial target. This means EU reduction of 30% domestic reductions by 2020 and a 2050 target of 80% of 1990 levels*
- *agreement on swift and strong action to de-carbonise the EU economy.*

EEB Response to EU Public Consultation on Future Commitments post 2012 on Climate Change, October 2004  
[http://www.eeb.org/activities/climate\\_change/eeb-consultation-contribution-10-26-04.pdf](http://www.eeb.org/activities/climate_change/eeb-consultation-contribution-10-26-04.pdf)

### **2.3. Financial Perspectives 2007- 2013**

The Luxemburg Presidency aims for the June European Summit to take the essential decisions with regards to the 2007-2013 Financial Perspective. The EEB welcomes this intention, as it would shorten the period of uncertainty about what means the EU will have available to support its agreed and future policies.

The proposal of the Commission to work with budgets of average 1,13% of EU-GDP has created a tense discussion between countries that want to operate a 1% upper limit, and those that agree more with the Commission.

The EEB is not of the opinion that spending more money is positive by definition. EU funds have been leading to serious forms of environmental deterioration and loss of biodiversity. And indeed, one can question whether the EU has a special role in funding research, which is the Commission's main area for increased spending. However, the EC Treaty and the future Constitution clearly call for an integrated model of development, where economic activities are serving social and environmental objectives, and where regions and rural areas are assisted against concentration and marginalisation. There is a big risk that if the discussion concentrates on the 1% limit, the result will be that the EU will be seen as having to provide for competitiveness for European business, while leaving other tasks more to the national and regional authorities. Given the advanced stage of integration of the markets in economic terms, this is dangerous and should be avoided.

In its initial aims, the Commission tries to combine two rather different agendas: the acceleration of growth and improvement of competitiveness, and cohesion, solidarity, bringing people closer together. It wants to heavily invest in technology development to help achieve the Lisbon agenda ('making the EU the most

competitive economy in the world by 2010'), but it also wants to continue with the support of economic development in regions that are lagging behind.

From an environmental point of view, it is logical to take the Commission's approach as a starting point. The EU exists to promote quality of life, employment, and a clean and safe environment for all, as well as for the single market, for business and industry, and for farmers. It must coordinate and stimulate the kind of progress that the market does not produce, and defend people's interests against negative impacts of globalisation and concentration.

However, the Commission's approach cannot be endorsed as such. In its Communication it confuses sustainable development with sustainable growth. And it aims to triple the expenditure for technology development and training for this purpose, from €8.7 billion in 2006 to €25.8 billion in 2013. One of the areas it wants to focus on is 'the take-up of eco-efficient technologies'. However, will investments here make the crucial difference? In the view of the EEB it is much more important to create demand, which is a matter of the right combination of regulation, environmental fiscal reform, public procurement and (strict) environmental liability, plus consumer awareness campaigns and information.

Cohesion policies (Structural and Cohesion Funds) are to be driven by the competitiveness impetus as well, according to the Commission. We need to assess critically what that would mean for its impact on the environment, which has already been disastrous in parts of Europe, destroying biodiversity and landscapes. The Commission aims to increase funds from €38.8 billion in 2006 to €51 billion in 2013. As said, here in particular we will see a battle about how quickly the support to Spain, Portugal and Greece is to be reduced in order to focus on the poorer new Member States.

It is remarkable that the Commission presents agriculture and fisheries payments under: 'Sustainable management and protection of natural resources'. While the EU's policies slowly move in the right direction, they do not serve that title any longer, and in the coming years the Commission does not foresee a new reform of the Common Agricultural Policy. An important step has been taken to decouple payments to farmers from actual production, but the income supporting payments are to a large extent not related yet to their environmental performance and their specific income needs. And for the rural development fund no increase is foreseen at all, except for the inclusion of the new Member States.

In the meantime, the Commission has presented a set of draft Regulations that would determine the way the EU funds are going to be spent. As a general trend, we see that the Commission proposes to reduce the role of the European Parliament in decisionmaking on spending. It is asking for broad mandates. The EEB is sure that the Commission will not leave the Member states out of the more specific decisions; similarly it should not institute a process that would diminish the role of the European Parliament as a budgetary authority.

*The EEB invites the Presidency see to it that:*

- *a robust system is put in place that ensures that all-relevant expenditure promotes sustainable development and environmental policy integration. This should be reflected both in the objectives and in robust impact assessment procedures, transparency and public participation, and monitoring*
- *quality requirements for Cohesion policy are strengthened, not weakened*
- *financing for Rural Development and for Natura 2000 is ensured at the level necessary for implementing the agreed policy objectives (see also part on Environment Council)*
- *research and competitiveness promotion should have sustainable development and environmental performance as specific objectives*
- *decisions on EU spending should be taken in democratic and transparent ways with the European Parliament playing its full role.*

### **3. THE GENERAL AFFAIRS, AGRICULTURE AND FISHERIES and ENVIRONMENT COUNCILS**

#### **3.1. Financing Natura 2000**

The EEB shares with other environmental organisations a particular concern about the EU-financing of Natura 2000. The European Council has confirmed the ambitious target of halting the decline of biodiversity by 2010. This definitely means that there should be substantial EU involvement in the management of our natural areas, in combination with general environmental policies to protect such areas from fragmentation and pollution.

The Commission has estimated that setting up and maintaining the Natura 2000 network will cost 6,1 billion Euro/year (which is probably an underestimate).

In principle we do not have a problem with the Commission proposal that EU funding for Natura 2000 is divided over different budget lines. In particular, the Commission proposes the use of Life+ (for very specific, smaller expenditure), and the Structural, Rural Development and Fisheries Funds. However, this proposal has two major problems:

- the Structural, Rural Development and Fisheries Funds will not be eligible for all types of Natura 2000 areas. Birdlife and WWF point in particular at wetlands and areas that are essential for threatened species such as the 47 EU Species Action Plans bird species and sub-species (such as the Iberian Lynx). Birdlife has calculated that for the protection and management of such sites between 250 and 500 million/Euro is needed
- we have no guarantee at all that the above-mentioned funds will be sufficiently used for Natura 2000 activities. The Dutch Presidency has investigated possibilities as to how such guarantees can be created. This information must be used to develop new proposals so that guarantees for Natura2000 financing can be established.

*Therefore, the EEB expects the Presidency to:*

- *insist on guarantees that 3 billion Euro per year will be spent on Natura2000 through funds such as the Structural, Rural Development Funds and LIFE+*
- *promote the amendment of the proposed Regulations on Rural Development, Structural and Fisheries Funds so that they reflect implementation of Natura 2000 and EU environment policy as major priorities and will sufficiently contribute to its realisation*
- *promote conditionality between the release of EU Structural Funding Commission approval and adequate national Natura 2000 financing plans*
- *promote compulsory payments for Natura 2000 site managers in the Rural Development Regulation*

- *promote the establishment of a Natura 2000 fund of at least 250 million Euro/year under Life+ in order to take care of areas that do not fall under the Structural, Rural Development, Structural and Fisheries Funds.*

A joint NGO position on Financing Natura 2000 (September 2004) <http://www.eeb.org>

## **4. THE TRANSPORT, TELECOMMUNICATIONS AND ENERGY COUNCIL**

### **4.1. An Effective Eco-design Framework for Energy-Using Products**

Whilst the EEB welcomes the Commission's intention to establish a framework for the setting up of eco-design requirements for Energy Using Products, it feels however that the proposal (COM 2003 (453) requires some essential improvements to achieve the desired objectives. The Parliament made good progress on improving the proposal in its position adopted in April 2004 but the Council has failed to take up some of the more important 'process' requirements as regards the setting up and enforcement of implementing measures and information requirements on producers.

The objectives of the Framework for setting eco-design requirements should be

1. Primarily to protect, to a high level, health and environment, promote reduced resource use and promote energy security via demand side energy efficiency. A proposal based only on article 95 of the EU Treaty risks restricting national environmental/energy requirements that wish to go beyond the EU requirements.
2. To put into action the Sixth Environmental Action Programme and integrate existing and future targets and goals on Chemicals, Resources, Waste, Air, Water, Biodiversity and Energy and Climate change as well as goals established in relevant EU Framework directives, and future thematic strategy targets – in particular the targets to be set in the context of Waste Prevention and Recycling, and the Sustainable management of natural resources.
3. To use the setting of minimum requirements through specific measures to gradually phase out the worst products on the market and stimulate innovation towards better performing technologies and/or services. To ensure that these requirements are set in a democratic process with independent background studies, research and scrutiny and that the New Approach deficiencies are corrected.
4. To build up the availability and quality of product lifecycle information, where insufficient data exists, with the dual purpose of allowing eventual setting of specific measures and improving product impact transparency in general (in particular for Business 2 Business and expert usage – consumer eco-test magazine networks, research and expertise networks, LCA databases, eco-labelling etc).

*In order to ensure the framework achieves these objectives the EEB calls on the Presidency to:*

- *Ensure the legal basis for this Directive includes article 175 of the EU Treaty and allow Member States the freedom to set national standards that go beyond the minimum eco-design requirements of this Directive's implementing measures recognising this essential policy driver.*
- *Ensure correction of the deficiencies of using the New Approach including the problems arising from the use of private standardisation bodies and the absence of necessary democratic checks and controls on implementing measures and in particular generic requirements. This requires proper resources ie obligatory funding of national standardisation scrutiny by civil society.*
- *Ensure the directive lays down a clear and binding environmental framework with a description of its environmental objectives, building on the European Climate Change Program, the Sixth Environmental Action Program and on the Thematic Strategies and targets and goals therein. It should also ensure that the establishment of eco-design benchmarks is carried out by the EU legislators (as opposed to individual manufacturers), in conjunction with independent and transparent expert analysis and subject to stakeholder review and should ensure that manufacturers perform assessments (and therefore document) design alternatives with the aim of achieving an improvement in the environmental performance of the product.*
- *Establish the appropriate default for verification and conformity assessment - Type verification (module B) should be set as the default option for the manufacturers' conformity assessment procedure. Additionally a standardised declaration on environmental performance should be provided as part of conformity assessment to ensure collection and public availability of sufficiently detailed product environmental performance information. Management systems should NOT be used for conformity/compliance.*
- *Guarantee the directive sets up exchange of standardised product information between manufacturers and authorities, and among authorities, with provisions for the data to be collected centrally and made publicly available.*
- *Ensure that the directive establish an independent expert body assisting the Commission in the setting of eco-design requirements and funding for environmental and consumer advocacy stakeholder involvement in consultation (Eco-design Board).*
- *Remove excessive emphasis on voluntary agreements.*

## 5. THE GENERAL AFFAIRS AND EXTERNAL RELATIONS COUNCIL

### 5.1. Enlargement

In this period, the accession treaties with Romania and Bulgaria are likely to be signed, whereas negotiations with Croatia are to begin.

Both Romania and Bulgaria have been given a set of transitional periods for parts of their environmental acquis. The EEB understands that for certain Directives such periods are practically speaking difficult to avoid. However, it is a big challenge for both countries to comply, also in the day to day practice, with the parts that need to be applied by the date of accession. And ongoing pressure, monitoring and assistance will be needed to see to it that the transition periods are properly used for getting ready in time.

With regards to Croatia, the EEB calls upon the Presidency to urge the new Commission to take the same approach as for the negotiations concluded: be firm on the requirements for the environmental acquis during the accession negotiations.

*In particular we call upon the Presidency to:*

Towards Bulgaria and Romania:

- *insist that both countries and the Commission ensure the maximum possible use of the remaining pre-accession period and funds to strengthen their legislative, administrative and financial instruments for implementation of the acquis, whereby the granted transition periods should be shortened in practice where possible*
- *insist that the remaining pre-accession funds will only be provided if assessments prove that there will be no direct or indirect adverse impacts on the environment. These assessments should also take into account public/NGO opinions*
- *take specific steps to facilitate agricultural reform in these countries in order to prevent adverse impacts on the environment and biodiversity, and further promote organic farming.*

Towards Croatia:

- *ensure firm limits are put on the minimum transition periods required and accept them only when they are backed with realistic implementation and financial plans when starting negotiations on environmental acquis*

- *ensure a high profile for the environment in the negotiations in general and request the Commission for regular overviews on how environment is integrated in other sectors during the negotiations*
- *take specific steps to facilitate agricultural reform in these countries in order to prevent adverse impacts on the environment and biodiversity, and further promote organic farming.*

## **6. THE ECONOMIC AND FINANCE AFFAIRS COUNCIL**

### **6.1. Removal of Environmentally Hazardous Subsidies**

The Spring European Council Summit 2003 urged the Ecofin Council *to 'encourage the reform of subsidies that have considerable negative effects on the environment and that are incompatible with sustainable development'*. Neither the Greek, nor the following Italian and Irish Presidencies took initiatives to launch this extremely important reform. While the Dutch Presidency promised to take up the challenge, we did not see concrete results. We call upon the Luxemburg Presidency to finally make a start and launch an open debate.

An essential element of sustainable development, particularly for sustainable consumption and production patterns, is to influence prices for resources, products and services. Environmentally perverse subsidies do the opposite: they promote unsustainable production and consumption patterns, increasing depletion of scarce resources, emission of greenhouse gases, and so on.

*Therefore, efforts to reduce and eliminate such subsidies and their undesirable environmental impacts should be initiated without further delay.*

## 7. THE AGRICULTURE AND FISHERIES COUNCIL

### 7.1. Rural Development Policy Post – 2006

A proposal for an EU Strategy Document for Rural Development is expected in May 2005. The EEB urges the Luxemburg Presidency to ensure that rural development policy is strengthened and delivers improved benefits for the environment.

*In particular the EEB calls on the Presidency to:*

- *ensure that pillar 2 is strengthened substantially via increased modulation and is budgeted for in the new Financial Perspective. Rural development should become the core of the CAP in the long-term*
- *environmental criteria must be integrated across all Rural Development measures. In the current regulation it is possible to have investments that can harm the environment. The criteria for measures for increasing competitiveness and diversification must have environmental benefits too.*
- *the European Strategy Document is a welcome component for the Rural Development Regulation. It is essential that the European Strategy Document emphasises all European environmental priorities, such as the halt of the biodiversity decline by 2010.*

The future of rural development policy (May 2004)

<http://www.eeb.org/activities/agriculture/EEB-The-future-of-rural-development-policy.pdf>

## **8. COMPETITIVENESS AND ENVIRONMENT COUNCILS**

### **8.1. An Effective New Chemicals Policy**

The EEB believes that the proposed REACH regulation could present the biggest and most important reform of EU health and environment protection. However, as the balance has been tipped towards business self interests in the process of preparation within the Commission, REACH needs to be strengthened in several respects.

In a surprise move under the Italian presidency this environmental dossier was forced to go to the competitiveness council, where it clearly does not belong. The EEB appreciates that a solution was found that involves both the environment and competitiveness experts and ministers.

The EEB has been participating in the Commission's further work on impact assessments, but does not believe that the KPMG study on business impact assessments in some selected sectors, commissioned by UNICE /CEFIC, will provide useful results. The EEB has been excluded from accessing key parts of the study, including interview results, which are the basis for all further conclusions. KPMG decided not to take on board the constructive input from the EEB to improve the methodology and avoid flaws as encountered in other studies, like Arthur D. Little for BDI or Mercer for UCI. The methodology used by KPMG thus contains many flaws and ignores important business benefits, potentially occurring further down the supply chain.

The Dutch Presidency has conducted an overview study of 36 REACH impact assessments, which highlights the methodological problems and the diversity of results. Further impact assessments are unlikely to constructively help the legislative process and should not be encouraged. Instead attention should be given to strengthening REACH in order to achieve its environmental and human health objectives in the most cost-effective manner. Important points in order to do so include the full implementation of the substitution principle for very high concern substances, closing the loophole for substances in imported articles and ensuring proper access to registration data and information flow for dangerous substances in articles down the supply chain.

The Dutch presidency has proceeded with the work at a good pace, and the new European Parliament aims at finalising its first reading before the summer break.

Europe's citizens and Europe's environment deserve and need a robust chemical policy as soon as possible. There has been too much delay already. Hazardous chemicals are penetrating our bodies and our environment more and more.

*Therefore the EEB calls upon the Luxembourg presidency to maintain the current pace and aim at finalising the work on the remaining REACH Titles IV-XV, so that the UK presidency can achieve a Common Position*

**THE KEY IMPROVEMENTS THE EEB WANTS TO SEE ARE:**

- 1. Registration data requirements and prioritisation:** Registration of 1-10 tonne substances should include a Chemicals Safety Report and sufficient data for a sound classification, including the necessary chronic algae toxicity test, the test of biodegradability and the second in vitro mutagenesis test. We feel it will be necessary to ensure that the regulatory and environmental benefits of each proposal are phrased. The Commission's approach basing data requirements on tonnage as the only proxy for exposure which is both agreed upon and available should not be questioned unless equally robust alternatives are proposed which do not undermine the no-data-no market principle and maintain the clear sunset dates for the handing in of the registration dossiers. It is worth mentioning that hazardous chemicals, such as the CMRs, are prioritised and that further prioritisation should be given to PBT and vPvB chemicals for early registration. Exclude any prioritisation on information, which information is not standardised (such as exposure) which is largely neither available nor replicable and largely claimed as business confidential.
- 2. The workability of the authorisation procedure and implementing the substitution principle:** The criteria and selection of "very high concern" chemicals should be improved by reducing the burden of proof for authorities/agency and introducing strict deadlines for the agency's prioritisation and selection procedure. The irresponsible gap of 'adequate control' in Article 57.2 should be deleted and a temporary authorisation should only be granted in case no safer alternative is readily available.
- 3. Quality assurance of industry information:** All registration dossiers should be quality assured by an independent third or certified party and at least 5% of all registration dossiers must be evaluated by the national authorities.
- 4. Chemicals in articles:** REACH must aim at the same standards as for EU articles. Therefore registration requirements should be based on the cumulative tonnage per producer and importer (and not article type) and the cumbersome obligation to assess the likelihood of release, and the likely toxicity, should be removed.
- 5. Transparency and access to information:** The list of non-confidential business information must be extended to include the names of registrants, volume categories and exposure information. The procedure for public access to information needs to be streamlined and improved. Safety data sheets must be handed down the manufacturing chain to enable retailers and consumers to find out whether dangerous chemicals are present in final products.

For joint positions on chemicals policy from the EEB, Greenpeace and Friends of the Earth Europe, see

<http://www.chemicalreaction.org>

EEB Letter to the EU Competitiveness Council, Brussels, 25-26 November 2004

<http://www.eeb.org/activities/integration/comp-council-11-19-04.pdf>

## 9. Environment Council

### 9.1. Sustainable Development

During the Luxembourg Presidency, the Spring Summit might determine for the next few years how sustainable development is to be interpreted, and what place it will have on the agenda of the EU. The EEB insists that the Environmental Council continues to fight for the integrity of this concept, explicitly for its environmental dimension, which is a pre-condition for a prosperous society which is also fair in social terms.

In the run-up to the March Summit, the Environment Council should produce a critical assessment of the proposals the Commission is to present to the Spring Council.

In case the preparations for a Charter on Sustainable Development take place, the Council should seek an active role, ensuring that the environmental dimension is key and that articles 6 (environmental policy integration) and 174 (the principles for environmental policy development) of the EC Treaty are fully integrated into this Charter.

*The EEB asks the Luxembourg Presidency to:*

- *fully involve the Environment Council in the preparations and the follow up of the Spring Summit*
- *fully involve the Environment Council in the preparations for the Charter on Sustainable Development*

With regards to the preferred outcome of the Lisbon Process, see chapter 2 on the European Council.

### 9.2. Better Regulation and Impact Assessment

Better regulation, simplification of legislation, reduction of administrative burdens, competitiveness proofing - all are concepts that industry and a number of Member-states push as ways to promote economic growth and competitiveness. Existing environmental policies are under threat and this political atmosphere is also creating a chilling effect on new initiatives.

The Environment Council should take a very active monitoring, responding and initiating role in this debate, to prevent negative outcomes for the environment. This however does not need to be a reactive role only. It is important that new environmental regulation should be of such quality that it could be defended against such challenges.

*With regards to better regulation, the EEB calls upon the Presidency to:*

- *ensure that environmental regulation is problem-based and solution oriented, with clearly defined environmental objectives, actions, targets, review mechanisms and indicators to measure progress/or lack thereof.*

### **Impact assessments**

In 2003, the Commission initiated a new method of integrated Impact Assessments on a number of major policy proposals. These Impact Assessments are to ensure that new legislation and policies are screened on their environmental, social and economic impacts.

The EEB has looked at the quality of the relevant assessments for the environment and has come to some worrying conclusions. These are supported by recommendations (to be published in mid 2004).

In summary: sustainable development is not an explicit motive for the impact assessments, while economic impacts have been given much more attention than other dimensions. There is also little consistency in the approach and within the Commission the participation of different Directorates General is poor and biased. Stakeholders' consultations have not been well organised.

The Council should insist on a proper Impact Assessment methodology so that the interest of the environment is truly served. In particular,

*The EEB asks the Presidency to insist the Commission makes some specific improvements in its Impact Assessment, including:*

- ***introduce clear sustainable development objectives:*** all Impact Assessments should start with clear sustainable development objectives, where possible derived from the EU Sustainable Development Strategy
- ***improve methodology:*** develop an assessment model that gives equal attention to less tangible impacts such as health and environmental benefits. A clear-cut criterion should be applied to determine when cost-benefit analysis is inappropriate due to its focus on 'efficiency' and monetization of impacts. In such cases an appropriate tool should be proposed
- ***invest in Impact Assessment:*** consider Impact Assessment as an important element of determining effective EU policies. Invest sufficiently in staff to make IA a process that goes on during the entire policy formulation and decision making process. We appreciate that DG Environment is making efforts to increase its capacity, also through co-operation with the EEA. This trend should be strongly continued, as DG Environment has to both defend its own proposals against short-sighted competitiveness arguments and to ensure that proposals originating from other DGs have explicit sustainable development objectives and respect Article 6
- ***improve stakeholders' role and participation:*** the Commission should provide timely, adequate information and allow for sufficient time for stakeholders' inputs. Furthermore, the Commission should facilitate,

*financially if necessary, the participation process to ensure a 'balanced' representation of stakeholders, particularly of NGOs. Finally, the Commission should provide better feedback to stakeholders on how and to what extent stakeholders' views are incorporated into the final policy, and, if not, the Commission ought to give reasons.*

'Bridging the Gap' conference in Dublin on 29-30 April 2004, contribution of John Hontelez, Secretary-General EEB to the session on Impact Assessment  
<http://www.eeb.org/activities/integration/dublin-speech-on-IA-04-28-04.pdf>

### **9.3. Implementing the Aarhus Convention in the EU**

#### **9.3.a. Introduction**

The European Community signed the UNECE Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters in 1998, in Aarhus. All Member States signed individually, and 15 have ratified in the meantime (Luxemburg not being one of them, although it is finally moving forward towards ratification). The Convention entered into force in October 2001.

The European Commission has taken the necessary steps to make ratification by the European Community possible. It has produced in total three draft Directives (on access to information, on public participation, on access to justice, always in environmental matters). The first two have been adopted by Parliament and Council in the meantime. It also produced a draft Regulation to apply the Convention to the EU institutions. And it has produced a ratification decision, one that should be formalised when the third Directive and the Regulation are adopted.

The EEB has insisted for a long time that the European Community should ratify in time to be a Party to the Convention at the Second Meeting of Parties, in May 2005. Due to delays in the Commission, and the failure of the Irish Presidency to put it on the Environment Council agenda, this deadline has become really tight. The Dutch Presidency chose to focus on the Regulation only, leaving the Directive on Access to Justice aside. The December Environment Council agreed on a weak version of the Regulation, meaning that it needs to bridge a substantial gap with the European Parliament, which in April 2004 delivered a position that made the Regulation, by and large, coherent with the requirements of the Aarhus Convention.

The Environment Council also started the official ratification process. For the EEB this is not acceptable as long as there is no agreement between the EP and the Council on both the Regulation and on the Access to Justice Directive.

*The EEB calls upon the Luxembourg Presidency to start the work on the Directive on Access to Justice without further delay, and to do everything in its power to move to a swift conclusion on the Regulation.*

### 9.3.b. Directive on Access to Justice

The draft Directive sets minimum standards for access to justice in environmental matters. It aims to implement the so-called third pillar of the Aarhus Convention for the EU Member States. In this way it contributes to better opportunities for the public and environmental citizens' organisations to insist on respect for environmental law.

The EEB has been involved in consultations that led to the Directive. It welcomes the general thrust of the Directive, and supports the amendments made by the European Parliament to strengthen the proposal and bring it more in line with the provisions of the Aarhus Convention.

The Directive should state explicitly that it set minimum requirements and that no Member States should use the Directive as a reason to reduce existing access to justice for members of the public in environmental matters.

The EEB produced a position paper on the proposed directive on 19 December 2003. This includes the following specific concerns:

- the proposal gives too much freedom to national authorities on how to define the criteria for cases against private entities, which might come into conflict with the EU objective to create level playing fields across the EU for economic operators
- the definition of 'public authority' is incomplete in comparison with the Aarhus Convention. This is important given the increasing privatisation and contracting out of functions previously carried out by public authorities
- the draft is too limiting with regards to the range of natural and legal persons that can have legal standing. The Commission leaves scope for restrictions that are not in agreement with the spirit of the Aarhus Convention.

The European Parliament adopted in the first reading a set of amendments which would bring the proposed Directive more in line with the Aarhus Convention. Under the Irish Presidency, the Environment Council did not even begin to work on this draft. Several governments have been reluctant to adopt any such directive, on grounds of subsidiarity. The Directive aims to help citizens in their attempts to ensure the effective implementation of Community environmental law.

*The EEB calls on the Luxembourg Presidency to make progress on this Directive a priority. It should lead the Council to accept the amendments made by Parliament to bring the Directive in line with Aarhus and to make clear that the Directive establishes a minimum framework for access to justice. The Council*

*should establish no requirements for 'qualified entities' which would introduce new barriers to access to justice for citizens and their organisations.*

EEB and Birdlife International briefing on the Directive on Access to Justice in environmental matters - "Schoerling" report (January 27th, 2004) <http://www.eeb.org/activities/transparency/BL-EEB-briefing-AtoJ-Directive-jan27-2004.pdf>

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

### 9.3.c. Regulation on Application of Aarhus Convention to EU Institutions

The EEB welcomed the proposal for a Regulation to apply the Aarhus Convention to the EC institutions and bodies. The proposal shows that the Commission was serious about environmental governance along the lines set out in this Convention.

The first reading in the European Parliament led to a number of needed improvements. However, the Council chooses to by and large ignore the position of the Parliament, and has weakened the Commission proposal instead. It is outrageous that the Commission was apparently not even defending its own proposal anymore, in particular with regards to access to justice.

Commission and Council refused to take the Directive on Access to Environmental Information as the basis for the exceptions in the Regulation.

With regards to public participation, both decided to seriously limit the scope. Policies and legislative work are exempted as a whole, as well as 'financial or budget plans and programmes'

Concerning Access to Justice, the EEB seriously doubts whether the formulations chosen in the Common Position of December 2004 will provide citizens the rights in practice as laid down in the Aarhus Convention.

*The EEB calls on the Luxemburg Presidency to make progress on this regulation a priority. The EEB calls on the Council to accept the amendments made by the European Parliament, which bring the regulation in line with the requirements of the Aarhus Convention. As with the Directive, the EEB calls for the rejection of unduly restrictive criteria for 'qualified entities'.*

For EEB's position papers:

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

EEB Briefing to EP Environment Committee on the 'Proposal for a Regulation on the Application of the Aarhus Convention to EC institutions and bodies'  
<http://www.eeb.org/activities/transparency/regulation-eeb-briefing-january2004.pdf>

Press Release: Environment Ministers Allow Only Partial Public Participation  
[http://www.eeb.org/press/pr\\_Aarhus\\_env\\_council\\_20\\_12\\_04.htm](http://www.eeb.org/press/pr_Aarhus_env_council_20_12_04.htm)

#### 9.4. Improving the Aarhus Convention as Regards GMOs

In May the 2<sup>nd</sup> Meeting of Parties of the Aarhus Convention will have to decide on a legally binding arrangement on how the public participation requirements of that Convention are to be applied to GMO-related decisions. In the preparatory process, the EU has so far played a negative role. The Commission and a number of Member states have systematically delayed the process in the formulation of a legally binding solution, as they in fact do not want the Aarhus Convention to be changed or enlarged in this field at all. This contradicts the unanimous decision taken by the 1<sup>st</sup> Meeting of Parties, in 2002 in Lucca, Italy, a decision on which Signatories of the Convention (including the Commission and most of the EU Memberstates) also agreed.

This approach is damaging for the EU's credibility among environmental citizens organisations, particularly in the wider Europe, which expect the EU to honour its commitments, to be neutral on whether decisions relate to GMOs or other major industrial activities with a potential environmental impact, and to take the lead in the further promotion of a democratic and participatory society.

The Working Group of Meeting of Parties on 1-4 February is to take a decision on what to present to the Meeting of Parties in May. So the Luxemburg Presidency has little time to change the negative approach that the Dutch Presidency did not succeed in changing.

*The EEB calls upon the Presidency to direct moves towards:*

- *a restoration of the EU's positive contribution to the Aarhus Convention*
- *an amendment to the Convention, at the next Meeting of Parties of the Convention, de facto including decisions on GMO deliberate releases and some forms of contained use, on the same requirements for public participation as other activities with a potential impact on the environment*

A comparative analysis from the EEB and European ECO Forum of GMO issues related to the Aarhus Convention

[http://www.participate.org/work\\_programme/GMOs-ECOFORUM-analysis.pdf](http://www.participate.org/work_programme/GMOs-ECOFORUM-analysis.pdf)

#### 9.5. Climate Change

The Russian ratification makes it now also legally obligatory for the EU to implement its reduction target agreed in Kyoto. EEB and CAN (Climate Action Network) Europe appreciate that the Commission has also launched the kick-off of the discussion on post-Kyoto reduction targets. It is important that the European Council in Spring 2005 has this issue on the agenda.

With the Kyoto Protocol coming into force during the Luxembourg Presidency, the EU must grasp the opportunity to engage developing countries and our Annex 1 partners in constructive discussions on future commitment periods beyond 2012. This engagement with developing countries will only be possible with a more active involvement with adaptation to the impacts of climate change. This will need strong diplomatic activity with the countries of the G77 and China, as well as good faith from the EU and other economically strong countries. EEB and CAN-Europe call on the Luxembourg Presidency to closely co-ordinate its work with the UK as it holds the double presidency of the G-8 and the subsequent EU presidency in the Autumn. The UK has climate change as a primary goal for its G-8 Presidency and Luxembourg should support this initiative.

With regards to the current obligations, most National Allocation Plans produced by Member states do not convince EEB and CAN that the EU reduction target will be achieved. The Commission has been too lenient in approving several of them.

*The EEB is looking for leadership from the Presidency towards the Environmental Council in four areas:*

- a. Give the Environmental Council an active role in reaching an agreement between the Member states on strong, medium and long-term targets for EU in line with keeping global warming below the EU 2-degree pre-industrial target. This means EU reduction of 30% domestic reductions by 2020 as the EU must act swiftly and strongly to decarbonise its economy and implement long-term emission reductions of 80% of 1990 levels by 2050 and contribute to a peak of global greenhouse gas (GHG) emissions before 2020. This should be the first priority of the Luxembourg Presidency.*
- b. Work with the UK and key countries on a viable, equitable framework for a post-2012 climate regime and progressive medium and long-term targets for EU GHG reductions.*
- c. Give the Commission full backing, and encourage it, in pushing for tightening the National Allocation Plans that have not yet been adopted, and in trying to tighten these, where still possible, and to keep the EU as a whole on track if this key climate regime will deliver towards EU meeting its Kyoto Protocol obligations*
- d. Reinforce the European Climate Change Programme (ECCP) and the work on policies and measures, including reaching agreement (in the Energy Council) on long awaited important legislation on energy efficiency*

## 9.6. LIFE+: EU finances and the Environment from 2007

While discussion on the general limits and orientations for the EU finances from 2007 has not yet been finalised, the Commission has already presented two sets of draft Regulations - in July and October 2004, -that would steer the spending of the available budgets for the EU for 2007-2013. In October the package includes one on environmental policies, called LIFE+.

The EEB is concerned about a general trend in this Regulation, which is found in drafts for other sectors as well, aiming to reduce the role of the European Parliament in decision making on spending. It is asking for broad mandates. The EEB is sure that the Commission will not leave out the Member states from the more specific decisions, but it will not do this through a process that will respect the role of the European Parliament as a budgetary authority.

*The EEB calls upon the Presidency to ensure that in the coming period, the role of the European Parliament in the practical decisions on Commission spending on the environment is not reduced as compared with the current situation.*

## 9.7. Thematic Strategies

22 July 2005 is the official deadline for the deliverance by the Commission of seven Thematic Strategies that were announced in the 6<sup>th</sup> Environmental Action Programme Decision. The trend in the preparations (the EEB is involved in 6 out of 7) is not very encouraging. DG Environment tends to choose the soft approach and may not come up with clear objectives, targets, timetables and a concrete list of (legislative) actions to be carried out.

*The EEB calls upon the Presidency to insist with the Commission that the Strategies fulfil some minimum requirements, such as:*

- *proposals for (where-ever possible quantified) targets and timetables*
- *proposals for legislation where this would help to achieve the targets and timetables*
- *proposals for market instruments, where appropriate, in particular to change consumption and production patterns.*

In particular:

- *Air Pollution: strict new PM2.5 limit value, no weakening of existing air quality limit values and an overall level of ambition that will enable the EU to reach the long-term environmental objectives of not exceeding critical loads and levels and effective protection of all people against health risks from air pollution by 2020*

- *Natural Resources*: overall target and targets for the reduced use of priority resources and sustainable harvesting criteria for biotic resources;
- *Pesticides Use*: targets and deadlines for pesticide use reduction
- *Soil Protection*: legislation on harmonised monitoring
- *Urban Environment*: directives on environmental management plans and sustainable urban transport plans introducing mandatory requirements and obligatory targets
- *Waste Prevention and Recycling*: a directive on biodegradable waste, no weakening of ambitions of existing waste policy approach as defined by the 1996 Waste Strategy, waste prevention targets for 2010 and corresponding binding operational measures;

*and to insist that the Strategies are end products, rather than introductions to further strategic discussions*

### **9.8. Protection of Groundwater for Future Generations**

The Commission's proposal for a new Groundwater Directive fails to clarify the gaps between the 1980 Groundwater Directive and the 2000 Water Framework Directive. It also fails to provide a clear vision on the protection of Europe's most important water resource. Such a vision is urgently needed considering the ongoing and rapid deterioration of groundwater. Groundwater pollution impacts rivers, lakes and valuable ecosystems, increases the costs of drinking water treatment and threatens the security of supply. The recuperation of polluted groundwater can take tens or hundreds of years and future generations deserve policies that ensure they can benefit from this valuable resource. Therefore, a clear prevention and no-deterioration approach is necessary, but missing in the proposal. Harmonised quality standards are difficult to set and control in an environmentally meaningful way when their size can range from tens of km<sup>2</sup> to several thousand km<sup>2</sup>.

Unfortunately the main focus of the Council's work so far has been on whether to introduce harmonised standards and too little political attention is given to putting prevention into practice. It is clear that water policy only cannot provide all the necessary measures to effectively ensure the prevention of input of hazardous substances, especially if technical control measures are unfeasible, as is the case with chemicals in everyday products. What is more important it is that future Groundwater policy identifies the chemicals which should be prevented from being input into groundwater and communicates them to the appropriate EU policies, including the authorisation procedure foreseen under REACH.

*The Presidency should therefore focus the debate to ensure that :*

1. *The approach taken by the existing Groundwater Directive of preventing the input of hazardous substances is taken forward and improved with effective identification of prevent substances, emission controls and reporting on*

*national and EU level. Those measures should have priority over standards setting and be aligned with the procedures established under article 16 of the Water Framework Directive.*

- 2. There is protection of remaining pristine groundwater from further quality deterioration. The presidency should investigate the introduction of groundwater protection zones or a high chemical status classification. Groundwater bodies in such zones or status should be prevented from quality deterioration or from falling into the good chemical status class according to the article 4 obligations of the Water Framework Directive. In practice we expect that most pristine or close to pristine groundwater bodies will be found in areas already protected under existing EU legislation (Habitat, Birds, Drinking Water Directives). Therefore it will not provide any significant extra burden for member States but rather guarantee consistency and integration between existing EU policies.*
- 3. The WFD requires setting quality standards and criteria for groundwater status assessment in a meaningful way - they must protect the most sensitive use (surface water or terrestrial ecosystems or drinking water). This should not be weakened by arbitrary average standards or economic considerations. On the contrary it would be more cost-effective and support the polluter pays principle if the new Groundwater Directive required the minimisation of water purification treatment to achieve drinking water standards. Quality standards should not allow the undermining of prevention of input of hazardous substances into groundwater or existing Community legislation like the Nitrates and Pesticides Directives.*

## **9.9. Quality of Bathing Water**

Europe's bathing water policy has been a success story. It has led to better human health protection, increased awareness about the added value and tangible benefits of EU environmental policy, and was the beginning of EU water policies. While the Commission in its proposal has taken forward this success story and the European Parliament decided on useful improvements, the Council Common Position unfortunately leaves it much to Member States' discretion whether and how much they protect bathers' health. Why should citizens trust a system which allows authorities to discard unpleasant monitoring results for assessing the status of bathing waters or even allow bathing waters to remain in poor status for as long as 5 years without closing them? Further the Council proposes a double protection standard for inland and coastal waters accepting much higher health risks than the Parliament and the Commission does for inland waters. And finally the integration with Europe's overall water policy, the Water Framework Directive, is inadequate. Potential monitoring gaps for nutrients or pollutants could occur and "good quality bathing waters" could be in moderate or poor chemical and ecological status.

*The EEB calls on the Presidency to:*

- *ensure that Europe's bathing water policy remains based on a harmonised approach ensuring equal protection of its citizens, therefore:*
  - *Seek acceptance for a better integration with the Water Framework Directive, so that good quality bathing water also achieves good ecological and chemical status;*
  - *Strengthen the compliance and monitoring regime, by deleting the "sufficient" quality class and only allowing short-term exemptions from "good status" in case of pollution from unforeseeable and rare weather events; and*
  - *Avoid double standards of protection for inland and coastal waters and seek acceptance for the standards for inland waters as proposed by the Commission and supported by Parliament. .*

**EEB position On the Commission's Proposal for a New Bathing Water Directive (COM(2002) 581 final)**

<http://www.eeb.org/activities/water/20030321-EEB-Position-on-Bathing-Water-COM-2002-581.pdf>

## **9.10. Genetic Contamination of Seeds**

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

The Commission is working on a Decision "establishing minimum thresholds for adventitious or technically unavoidable traces of genetically modified seeds in other products". The present draft, setting a 0.3% threshold for maize and rapeseed, offers no guarantee that farmers and the food industry will still be able to offer non GM products and it will, in any case, create massive additional costs for all economic operators further down the production chain.

In fact, it reduces the remaining "safety margin" to between 0,1% and 0,9% for farmers, processors and retailers and thus shifts the burden of costs and risks to businesses and markets other than those introducing and demanding the GM products. The quantity of seeds used typically amounts to less than 1% of the quantity of produce yielded from them. It appears to be common sense that controlling the contamination at source will incur much lower costs than controlling the vast and diverse amounts of products; especially as commercial seeds are already a highly controlled product and seed producers will have to test for the presence of GM traces anyway. Thus, even if the seed costs were doubled, their share in any case would be minimal compared to the overall costs of the final product.

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

Therefore the EEB calls upon the Presidency to work for strict purity standards for GM contamination of seeds, legally and technically established at the reliable detection limit of 0.1% as the European Parliament, in its own-initiative report on co-existence (December 2003), has also proposed.

### **9.11. A Precautionary Waste Shipment Regulation**

The EEB welcomes the Commission's proposal on the revision of the Regulation on Shipments of Waste. However some important issues need to be strengthened. The regulation must have the appropriate legal basis (art. 175 - protection of the environment) as it is NOT primarily a market instrument, and authorities must be given the option to object to waste movements on the basis of technical and waste management policy criteria. The Parliament made good progress on improving the proposal in its position adopted in November 2003 but the Council has failed to take up some of the more important requirements as regards criteria for objections to movement, use of the waste lists, financial guarantees and transparency.

*The EEB therefore calls on the Presidency to ensure the following elements are present in the final agreement between Parliament and Council:*

- *the legal basis is on article 175 (1) of the treaty*
- *the criteria for objections to movements of waste for recovery (article 13) including foreseeing the establishment of technical criteria to dissuade sham recovery*
- *clarifying the classifications (of dispatch) and requirements relevant to ships as waste*
- *the criteria for objections in general give maximum scope to national authorities*
- *the use of the OECD and EU hazardous waste lists should be given equal hierarchical footing to the Basel list (they must be additive not subtractive) and that the regulation retains the Commission proposed specific obligations as regards Animal By Products, POPs adding further the same for asbestos*
- *require diffusion of good practice and transparency by requiring all waste shipment notifications to be made publicly available, through appropriate means such as the Internet and ensure that NGOs are able to attend the meetings of the national correspondents on the implementation of the Waste*

*shipment regulation in the capacity of observers, and receive all relevant information*

- *require financial guarantees before shipment to be established and legally binding at the time of notification, with no derogation for operations covered*
- *Includes provisions for regular IMPEL–SEAPORT type spot-checking actions to strengthen enforcement.*

## **9.12. Air Pollution from Ships**

While pollutant emissions from land-based sources are gradually coming down, those from shipping show a continuous increase. Even after accounting for the implementation of MARPOL Annex VI, SO<sub>2</sub>-emissions from shipping in European sea areas are expected to increase by more than 40% between 2000 and 2020. According to recent emission projections from the CAFE programme, by 2020 the emissions from international shipping around Europe will have surpassed the total from all land-based sources in the 25 EU Member States combined.

Emissions from shipping could and should be reduced by 80-90%. Moreover, such reductions are very cost-effective, as compared to attaining similar reductions from land-based sources. Such reductions are needed to achieve the long-term environmental objectives of not exceeding critical loads and levels and effective protection of all people from negative health effects of air pollution that the EU Member States are bound to through the Sixth Environmental Action Programme.

The proposed revision of directive 1999/32/EC as regards the sulphur content of maritime fuels will go into second reading in the Parliament at the beginning of 2005. In the first reading an almost unanimous Parliament called for significant reductions of air pollution from ships – by introducing a second stage maximum sulphur limit of 0.5% and extending the sea areas covered to include the Mediterranean and the North East Atlantic. This would mean that SO<sub>2</sub> emissions from ships in EU waters could be cut by about 80%. These proposals by the Parliament have in no way been met by the Council's common position which basically followed the Commission proposal of introducing measures that would merely result in less than 10% reduction of SO<sub>2</sub>. It is now time for the EU Member States to move and take account of the demands by Parliament, which were backed by an overwhelming majority of MEPs from all relevant political groups. The Luxemburg presidency should play an active role in convincing the Member States to accept a position that reflects the demands of the Parliament.

*The EEB calls upon the Luxemburg Presidency to*

- *use their influence to further an agreement between the Member States that reflects the demands of the Parliament, notably by introducing a second*

*reduction step, further decreasing the sulphur content of maritime fuels to 0.5% and extending the geographic coverage of the directive to the Mediterranean Sea and the North East Atlantic*

- *encourage Member States to ratify MARPOL Annex VI and to co-ordinate their positions in IMO with the aim of promoting further emission reductions, e.g. by lowering the global sulphur cap, by designating more sea areas as SECAs, by lowering the sulphur limit in SECAs to 0.5%, and by introducing stricter NOx-standards for maritime engines*

Air Pollution from Ships, Joint Briefing Document by EEB, T&E, SAR and the Swedish Acid Rain Secretariat

[http://www.eeb.org/activities/air/ship-briefing-nov04-\(1\).pdf](http://www.eeb.org/activities/air/ship-briefing-nov04-(1).pdf)

### **9.13. Phasing out 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 also well known that mercury has no respect for national or regional boundaries, travelling long distances through the atmosphere, and has contaminated both the European and global food supplies at levels posing a significant risk to human health, according to medical and public health professionals around the world. It is therefore clear that since present measures are not adequate to sufficiently reduce the risk, further action must be undertaken.

Responding to a 2002 request from the Council of Ministers, the European Commission will soon adopt a Communication on the Community Strategy Concerning Mercury. The Council of Ministers is expected to take conclusions on this basis.

The global dimension of this Community Strategy needs especially to be underlined, with its clear message to the world community that mercury emissions, supply and demand should be reduced to a minimum, as rapidly as possible. This is not only a recognition of the EU responsibility for its share of the problems, but also a pragmatic realisation that there is little point in reducing mercury demand simply within the EU, only to export the unwanted mercury to the developing world where it will be used under far less stringent controls, released, and ultimately be transported back into the EU atmosphere and wind up in the fish EU citizens consume.

*The EEB calls upon the Luxembourg Presidency to ensure that the Council makes conclusions, which will:*

- *strengthen the EC proposed actions towards a phase out of mercury use and elimination of its emissions in the EU, as well as towards preventing the export of mercury to developing countries*

- *support the fact that immediate action should be taken to temporarily store the mercury from decommissioned chlor-alkali plants, with the ultimate intention of a permanent retirement*
- *agree on a positive, pro-active role of the EU and its Member States at the coming UNEP Governing Council (February 2005), towards the development of a global new, binding, instrument to address mercury. The Presidency will have to take the lead in that respect.*

Environment and Health NGOs urge for a strong Community Strategy on Mercury, 30 November 2004.

<http://www.eeb.org/activities/Mercury/041130-Final-Letter-on-Mercury-to-EC.pdf>

Environmental NGO comments to UNEP on further measures for addressing global mercury contamination, 1 July 2004

[http://www.mercurypolicy.org/new/documents/UNEP\\_Comments\\_070104.pdf](http://www.mercurypolicy.org/new/documents/UNEP_Comments_070104.pdf)

### **9.14 Halting the Decline of Biodiversity in 2010**

The European Commission was asked by the Environmental Council in summer 2004 to give a delivery plan of the actions from the Message from Malahide (Biodiversity Conference May 2004). In November 2004 a conference was organised in Bergen op Zoom on the 25<sup>th</sup> anniversary of the Birds Directive. The commission stated at that conference that they would use the conclusions of the Bergen op Zoom conference for the delivery plan on Malahide. This delivery plan is expected in this summer.

*The EEB urges the Presidency to:*

- *ensure that the commission comes forward with a delivery plan for the Message of Malahide and the conclusions of Bergen Op Zoom.*

A joint NGO position on Financing Natura2000 (September 2004) <http://www.eeb.org>