

**Green 10**

# ‘Could Try Harder’

A mid-term report on the European Commission's environmental record



A group of leading environmental NGOs active at EU level

**‘Could Try Harder’  
A mid-term report on the  
European Commission’s  
environmental record**

**A review produced by the Green 10, a group of leading  
environmental NGOs active at EU level**

**REPORT ON:** European Commission 2004-9  
**ANALYSIS STAGE:** Mid-term (2.5 years)  
**COMPILED BY:** Green 10

IN ITS REMAINING HALF-TERM, THE COMMISSION SHOULD:-

**performance to date out of ten :**

LISBON PROCESS

5

- Refocus on energy and resource efficiency
- Take major initiative on environmental tax reform

SUSTAINABLE DEVELOPMENT

3

- Place implementation task force under Barroso's leadership
- Reinforce proposals for December 2007 summit

COHESION POLICY

4

- Insist on changes in draft national Operational Programmes for 2007-13 in line with Sustainable Development Strategy
- Refuse Operational Programmes where Strategic Environmental Assessment (SEA) has not been carried out promptly and properly

TRADE POLICY

3

- Fully embed environmental protection in all trade negotiations
- Refrain from pressures on third countries to weaken environmental protection for liberalisation reasons

DEVELOPMENT

5

- Fully implement European Consensus on Development
- Revise strategy for 'environmental mainstreaming' (integrating environmental considerations into institutional thinking and decision-making)

SIXTH ENVIRONMENTAL ACTION PROGRAMME (6EAP)

4

- No weakening of existing environmental policies
- Step up efforts for better enforcement

AGRICULTURE

6

- Insist Rural Development Plans contribute fully to implementation of EU's environment and sustainable development objectives
- Bold proposals to reform CAP into fully sustainable policy by 2013

ENERGY

6

- Ambitious implementation of the Energy Efficiency Action Plan through the adoption of additional policies
- Effective Renewables legislation to extend and expand the green electricity sector and provide specific support for renewable heating and cooling

**performance to date out of ten :**

TRANSPORT

5

- Focus on demand management and introduce 'polluter pays' principle in transport pricing
- Introduce CO<sub>2</sub> legislation for new cars, to double fuel efficiency of new cars by 2020

CLIMATE CHANGE

7

- Ensure compliance with Kyoto targets through reduction of EU domestic emissions enabled by an ambitious set of policies
- Provide leadership towards an international agreement to be concluded by 2009 in line with the 2°C target

BIODIVERSITY

5

- Ensure full implementation of Biodiversity Communication and Action Plan (Commission and Member State action), especially the Birds and Habitats Directives
- Ensure sufficient designation, proper management and good financing of the terrestrial and marine Natura 2000 network
- Ensure implementation of the existing EU legislation on GMOs, and
- Ensure that the European Food Safety Authority respects strict standards

But GMOs:

2

MARINE PROTECTION

2

- Follow European Parliament in strengthening Marine Strategy Directive
- Strong leadership on sustainable fisheries policies: meet target of fish stock recovery by 2015

CHEMICALS

3

- Ensure European Chemicals Agency's independence from chemicals industry interests
- Make forthcoming reviews a tool to strengthen Registration, Evaluation & Authorisation of Chemicals (REACH) legislation

ENVIRONMENT & HEALTH

5

- Increase information on links between environmental pollution and health impacts
- Propose ambitious National Emissions Ceilings for 2020

FORESTS

2

- Propose laws to ensure all timber and timber products on EU market are from legal sources and responsibly-managed forests

NATURAL RESOURCES & WASTE

3

- Implement Sixth Environmental Action Programme on Waste: end roll-back
- Deliver Action Plan on sustainable production and consumption with clear targets and measures on resource efficiency

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## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: INTRODUCTION**

As we did with the previous Commission, the Green 10 coalition of environmental organisations has produced a mid-term assessment of the Barroso Commission's record in honouring its obligations to protect and improve the environment, as specified in the Treaty. This review presents a critique of the past two-and-a-half years, plus a 'to-do' list for the rest of its term. We conclude that this Commission made a poor start, paying lip-service to or marginalising the environment agenda. Worryingly, it appears to lack vision on how to ensure peace and prosperity in the face of climate change and ecosystem breakdown, and how to prepare Europe for the related economic, social and environmental challenges ahead. Its increased attention to climate change in recent months arouses some hope, although there is still no sign of a coherent agenda to make the EU the world's most energy and resource-efficient economy. Leadership for countries unready or unable to take major strides towards sustainable development by themselves has also been in short supply in Brussels.

The Barroso Commission did not start its term smoothly: two candidate Commissioners were replaced after tough Parliamentary hearings, and some environmentalists were concerned about the capacities and motivation of the environment candidate, Stavros Dimas. These doubts were unjustified. Mr Dimas has thus far proved his commitment to the environment, and determination to tackle climate change (National Allocation Plans and car emissions), protect biodiversity, and limit the damage to several dossiers, such as new Air Quality laws. He also recently showed determination to uphold EU law in EU Member States, by opposing Polish plans to build drive a road through the unique Rospuda Valley, protected by EU nature legislation.

President Barroso began his term by expressing the view that economic growth alone can secure our social model, health and pension systems, and a healthy environment. This thinking influenced the revision of the Lisbon Strategy, and the de-prioritising of core elements of EU environment policy. The Commission was under an obligation to present Thematic Strategies on air quality, waste and sustainable resource use, among others, but when they were finally delivered, all the strategies were timid, several lacked clear targets, and the most important ones even proposed weakening existing obligations and commitments.

Negotiations to green some aspects of the 2007-13 EU budget ended in defeat for the Commission, whose hopes for more funding for eco-innovation were dashed by the British Presidency. More regrettable still was the Commission's refusal to propose a guaranteed contribution to the Natura 2000 programme that funds biodiversity protection in the EU, and a robust system that would ensure that all EU funds benefit the environment and sustainable development more generally.

On the revision of the Sustainable Development Strategy in 2006, the Commission missed the opportunity to set out an inspiring vision of how the EU could successfully tackle the challenges of climate change and ecosystem breakdown. Its proposal was thin on the ideas, targets and deadlines necessary to drive action. Fortunately, the Austrian Presidency salvaged the text. Even so, once the Strategy was adopted, the Commission chose to ignore it, especially regarding transport policy.

In the second half of 2006, the tide began to turn, prompted by the Stern Review, which flagged up the economic risks of a wait-and-see approach to climate change, and the Commission started paying greater attention to the link between the

environment and economics. The Commission is currently fighting to hold all EU countries to their commitments to implement the Emission Trading Scheme, a key tool to ensure the whole EU meets the Kyoto target for reduced greenhouse gas emissions. It also got agreement on an energy policy package which, despite its weaknesses, contains important binding targets for greenhouse gas emissions reductions and renewable energies.

Late 2006 saw the completion of REACH, a fundamental reform of EU chemicals law aiming to provide the public with more data and protection from chemicals in production and use. The Barroso Commission struggled to uphold its predecessor's modest ambitions, and utterly failed to take on board demands from health and environment groups, and innovative businesses. The Commission did not help Parliament incorporate the substitution principle into REACH, ignoring the potential for innovations serving triple objectives (environment, economy, and society). This suggests that the Commission's current climate enthusiasm does not reflect enhanced support for pro-environment, pro-public health policies. We are consequently concerned that the Barroso Commission may overlook negative environmental impacts arising from its climate agenda: for nature and water (biofuels), air (waste incineration), and safety (nuclear power).

On biodiversity, the Commission published a strong Communication with an Action Plan for attaining the 2010 target of halting biodiversity decline. It remains unclear whether it has the resources to live up its words. The Commission has paid less attention to biodiversity and ecosystem protection than to climate change. This is regrettable, since diverse and healthy ecosystems are the foundation for sustainable development and resilience to climate change.

The Barroso Commission could play a key role in inspiring public confidence in the EU project, not through propaganda, but by leading the pro-environment agenda that most EU residents expect. As official opinion polls confirm continually, European citizens want the EU to protect natural habitats and prevent environmental degradation.<sup>1</sup>

There is still time for the Commission to make up for its poor start. But only if it issues a programme to green our economy, including through environmental fiscal reform, and protect people and nature using policies that work. Recent declarations show no lack of ambition on climate policy, but we need joined-up measures and political willpower to reduce greenhouse gas emissions. The challenge of meeting the existing Kyoto goals is a signal that achieving 2020 targets will require leadership from the Commission, and now. Devolving policy on global environmental problems to national level is not an option. The EU is a unified market, and its Member States constantly affect each other's environments. As the world's largest economy, the EU's product standards and trade rules have environmental impacts far beyond its borders. There is no alternative to ambitious leadership on sustainable development. This can be achieved by implementing the actions we present in this Review.

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<sup>1</sup> (see also recent Eurobarometer on energy policy)

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: THE LISBON PROCESS: ITS IMPACT ON ENVIRONMENT AND DEVELOPMENT**

**Score: 5 out of 10**

### **Starting point**

The 2000 Lisbon Spring Summit outlined a strategy to make Europe “the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion by 2010”. It focused on training, research, innovation, employment, but also on ‘better regulation’ and impact assessment with the objective of avoiding policies which threatened EU industry’s competitiveness. Under this framework, in 2003, REACH was brought under the Competitiveness Council, and the energy sector’s liberalisation process was accelerated. In 2001, the European Council decided to consider the EU Sustainable Development Strategy (adopted in June that year) as the third dimension to Lisbon (the other two being the economic and social dimensions). A positive outcome was the pressure finally to adopt a Directive on environmental taxes on energy products, and another was the adoption of an Environmental Technology Action Plan (ETAP).

### **Performance to date**

The new Commission tried to narrow down Lisbon’s focus to a straightforward growth and jobs strategy. President Barroso defended this with his infamous analogy of the three children, one of whom is sick (the economy), so the others (environmental and social interests) must remain silent for a while. According to the Commission’s 2005 Spring Report: “The Commission is fully committed to sustainable development and modernizing and advancing Europe’s social model. Without more growth and jobs this will not be possible.”. Fortunately, the Luxembourg Presidency refused to accept such a one-dimensional picture. Under its leadership, the March 2005 European Council broadened Lisbon’s scope again. That Presidency had again to intervene when the Commission produced draft guidelines for National Reform Programmes (NRFs) with the same narrow focus. In 2006, we saw a slight change in approach. President Barroso confirmed, at a conference organised by ETUC, EEB and Social Platform, the equal importance of the two neglected children. And in December 2006, the Commission criticised the non-implementation of the Lisbon guidelines, particularly regarding climate-related issues. This demonstrates that the Commission has begun to view fighting climate change (in particular) as a vital investment priority.

### **Still to do**

The Commission should use the Lisbon process systematically to integrate environmental objectives in sectoral and horizontal economic policies. It should refocus its objective of making the EU the world’s most energy and resource efficient economy. This should bring changes in research and innovation, public procurement, energy and transport. It should promote an Open Method of Coordination on environmental fiscal reform, so labour costs go down while use of energy and virgin resources is charged the right ecological price. It should ensure better regulation and impact assessment exercises in no way undermine the EU’s environmental commitments, as enshrined in the Sixth Environmental Action Programme.



## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: SUSTAINABLE DEVELOPMENT**

**Score: 3 out of 10**

### **Starting point**

In May 2001, the Prodi Commission presented an EU Sustainable Development Strategy (SDS), which was partially endorsed by the European Council in Gothenburg a month later. In June 2002, the Commission and European Council agreed on additions covering the international agenda. In 2004, the Prodi Commission began reviewing implementation of this first EU SDS. But it left it to the Barroso Commission to complete the review and present a new Strategy.

### **Performance to date**

In February 2005 the Commission presented a fair assessment of the first SDS's success. But public and internal signals revealed that developing a new Strategy was not a priority in the new Commission, which was more focused on a narrow Lisbon agenda uncomplicated by too many environmental caveats. It was therefore very telling that the Luxembourg Presidency forced progress by initiating a Declaration on Guiding Principles for Sustainable Development. The Commission provided a reasonable draft but under the Presidency's leadership, the European Council endorsed an improved version. The Declaration was meant to provide the framework for the new SDS. The ensuing British Presidency was due to organise discussions on a draft for this new Strategy, but internal problems meant the Commission only presented the draft in mid-December. The draft was uninspiring, lacked ambition and had poor communications potential. Fortunately, the Austrian Presidency held inclusive discussions, centred on the different Council of Ministers formations. The Presidency succeeded in getting the June 2006 European Council to adopt a Strategy that is readable, comprehensive, with some degree of vision and an explicit institutional follow-up process. But the actual commitments and ambitions undershoot what the G-10 thought necessary. The Commission has an important role in implementing the Strategy. It has arranged international coordination at official level, but at Commissioner level, sustainable development continues mainly just to receive lip-service. Some substantive activities have begun, such as phasing out environmentally-hazardous subsidies. In January 2007, President Barroso named sustainability as one of the EU's five key values, to be enshrined in the Berlin Declaration celebrating the EU's 50th anniversary. But the reference was restricted to fighting climate change.

### **Still to do**

The Commission must earn its key role in implementing the Sustainable Development agenda. It should set up a coordination group led by President Barroso, with a major part for Mr Dimas, to ensure the Commission practises what it reluctantly admits when asked, which is that the SDS is the overarching framework under which the Lisbon Strategy operates. The Commissioners' Task Force should initially ensure full and timely execution of the Commission's tasks set out in the Strategy, and prepare proposals for the forthcoming December 2007 Council to update the Strategy with more ambitious targets and deadlines.

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: COHESION POLICY PERSPECTIVE**

**Score: 4 out of 10**

### **Starting point**

Over the past three years, a new legal and policy framework for the next financing period through EU Structural and Cohesion Funds (2007-13) has been put in place. This has been an opportunity to reorient the cohesion policy funding, due to total €347bn over the seven-year period, to promote sustainable patterns of development. In July 2004, the Prodi Commission presented a set of five draft regulations for cohesion policy, which were finally adopted by the Council and Parliament in July 2006. The regulations were followed by the Community Strategic Guidelines (CSGs), which set common EU priorities on what should be financed, but are not legally-binding. The draft CSGs were launched by the Barroso Commission in July 2005 and adopted by October 2006. In parallel, countries and regions have been preparing National Strategic Reference Frameworks (NSRFs) and Operational Programmes (OPs) to plan for the actual use of the funds in 2007-13. For the first time, the OPs were subjected to Strategic Environmental Assessments. The NSRFs and OPs must still be approved by the Commission, which is currently negotiating their contents informally and formally with Member States.

### **Performance to date**

Overall, despite some improvements over previous funding periods, the Commission seems again to have missed the chance to use the cohesion policy to support sustainable patterns of development. The most important change is that the funding in 2007-13 will have to concentrate more on promoting the new Lisbon (Growth and Jobs) Agenda: 60% of funding under the 'Convergence' objective and 75% under the 'Regional Competitiveness and Employment' objective are 'earmarked' for Lisbon Agenda investments. The earmarking provision was not in the original 2004 draft regulations, and was only introduced later by President Barroso and some Member States during negotiations on the 2007-13 Financial Perspectives. The 'Lisbon-type' investments promoted include large-scale transport infrastructure but also energy efficiency, renewables and clean urban transport. However, no other environmental investments, waste recycling, Natura 2000 or cultural projects are included and have thus been deprioritised.

Among the Commission's positive achievements were its increasing commitment to promoting the use of funding for energy efficiency, renewables and clean urban transport. The addition, in the general Cohesion Policy Regulation of Article 17 on promoting sustainable development and environmental protection, was another plus. However, there were some important negative results. Lisbon earmarking further promotes financing for motorways and airports and acts as a disincentive to financing more environmental projects. The Commission's reluctance to use EU funds for Natura 2000 is a further black mark. And abandoning the 50-50 split in the Cohesion Fund for Transport & Environment is another (the practical result is that Poland, the largest recipient of funds, is planning to invest 75% in transport and only 25% in the environment).

### **Still to do**

During the crucial continuing negotiations on Member States' NSRFs and OPs for 2007-13, the Commission should ensure there are sufficient funding allocations for

Member States' environmental obligations, including Natura 2000, as well as consistent and well-targetted support for energy efficiency and renewables in all Member States. The Commission must also insist on refocusing transport funding away from motorways and towards public transport. It must also refuse OPs where SEA has not been carried out in a timely and proper manner. Finally, in its remaining half-term, the Commission should also develop a monitoring and evaluation system (which does not currently exist) to assess actual economic, social and environmental impacts of EU funding in all the regions.

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: TRADE PERSPECTIVE**

**Score: 3 out of 10**

### **Starting point**

In line with his predecessor's policy, in October 2004, the Trade Commissioner, Peter Mandelson, committed himself in the presence of MEPs to pursuing a "balanced agenda" which would promote "global prosperity and social justice through more open, rules-based trade, for the benefit of all, especially the poorest." He pledged to seek continuity for EU trade policy by prioritising multilateralism, development and "progressive liberalisation". Mr Mandelson affirmed that European values such as environmental sustainability and applying the precautionary principle should be enshrined in shared rules that would "underpin the world trade system".

### **Performance to date**

The Barroso Commission's environmental record in trade policy is mixed. On the plus side, we appreciated the Commission's commitment to renew the Sustainability Impact Assessment (SIA) programme for all EU trade agreements, introduced by the previous Commission and the general openness of these evaluations to civil society participation. But SIAs have yet to be fully integrated into EU trade policy-making, are often disregarded by Member States, and may not propose alternative policies to trade liberalisation. While EU trade policy-making generally remains biased towards corporate interests, DG Trade's civil society dialogue programme has matured encouragingly, providing a useful forum for NGOs and the Commission. On policies, we welcomed the Commission's decision before the WTO Hong Kong Ministerial in December 2005 not to support sectoral negotiations to liberalise natural resources such as fisheries and timber. But we regretted the Commission's decision not to exclude these sensitive sectors from the general trade-offs in trade negotiations. While Mr Mandelson recently entered the climate change debate, his proposals on the subject have so far been limited to increasing liberalisation of 'environmental goods and services', without clarifying what these products are and how their liberalisation might help tackle climate change without further widening the development gap. By contrast, the Commission has developed a more aggressive market access agenda with its October 2006 'Global Europe' Communication. An especially worrying aspect of this new strategy is the drive to achieve easier access to the world's fragile natural resources for the sole benefit of European companies.

### **Still to do**

Short-term 'mercantilist' agendas are incompatible with environmental protection. Instead, EU trade policy must fundamentally change course. Environmental protection must cease to be a mere add-on or flanking measure to trade liberalisation. It should be fully embedded in EU trade policy. The Commission should continue to lead efforts to strengthen internationally-agreed environmental rules and environmental governance on trade rules. It should also abandon all liberalisation strategies that jeopardise sustainable natural resource use and challenge or 'chill' legitimate environmental regulations in third countries and the EU. It should acknowledge the legitimate right to protect and potentially use domestic natural resources for industrial development and consequently abandon efforts to ban export duties. The Commission should also drop all insistence on TRIPS+ (Agreement on Trade Related Aspects of Intellectual Property Rights) obligations, access to public procurement markets, increased investment protection or services liberalisation in its

proposed free trade agreements (FTAs). Finally, it should subordinate all new negotiations and other bilateral economic agreements to mutually-agreed objectives and binding targets for sustainable development.

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: DEVELOPMENT PERSPECTIVE**

**Score: 5 out of 10**

When the current Commission took office, the G-10 pointed out the lack of consistency between the EU's sustainable development commitments and actions within development cooperation. In particular, we noted the lack of serious analysis of the role of natural resources in development, the links between poverty and a healthy environment, and coordination problems between the services responsible for development and external relations.

### **Starting point**

In 2005, the EU Court of Auditors carried out an evaluation of the Commission's management of environment issues in development cooperation. Published in 2006, the report is highly critical of the Commission's record in fulfilling requirements under the EC Treaty to incorporate environmental protection into its sustainable development policies. The report highlighted the lack of a coherent strategy, insufficient trained staff, failure to follow guidelines, inadequate monitoring systems, frequent absence of environmental impact assessments and strategic environmental assessments, and poor project outcomes.

### **Performance to date**

The Commission has begun to address some core concerns. The European Consensus on Development reiterates the overarching aim of sustainable development, the importance of environmental protection for long-term poverty reduction and the need to strengthen mainstreaming of environmental issues in development cooperation. Another positive development has been the New Common Framework for Country Strategy Papers and guidelines for geographic programming of funding through country and regional strategy papers which explicitly refer to the need for an environmental profile. A preliminary stock-take suggests that EC delegations have commissioned these profiles in most countries which receive EC aid. This represents real progress, but the quality and use of environmental profiles remains to be assessed. The agreement to publish environmental profiles to help consultation with civil society on strategy papers and ensure all EIAs are held in a central database, has also been an improvement because a major stumbling block to date has been the accessibility of environmental information held by the Commission. The Thematic Programme on environment and sustainable use of natural resources, including energy, to address global and regional environmental challenges has been developed. However, given the scale of these challenges and the number of international environmental commitments to be met, the financial allocation for the TP is meagre. Finally, the Regional Strategy and Partnership for the Pacific Islands, recognising the value of marine and other natural resources has been a welcome development.

### **Still to do**

The Commission must continue its commitment to addressing the failures to date in environmental mainstreaming and to living up to expectations in the Development Consensus. We expect the Commission to produce a revised strategy for environmental mainstreaming, with indicators for monitoring impact. The Commission must also pay attention to sustainability aspects in the EU-Africa Infrastructure Partnership and the associated Trust Fund using intra-ACP finances. It

should devote greater attention to the principles of integrated water resource management in its support for water through country programming and the EU Water Initiative. The Commission should also take forward its responsibilities in the external dimensions of the 2010 Biodiversity Plan of Action. We also expect the Commission to implement and enhance the Rolling Work Programme for Policy Coherence for Development, particularly regarding the environmental aspects of Policy Coherence for Development, including fisheries, trade, and climate change. The Commission should support environmental priorities identified by African governments in the EU-Africa Strategy. And the Commission should ensure that the forthcoming EU Development Report provides a serious analysis of poverty-environment linkages and suggests new approaches to improve the environmental dimensions of development.

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION SIXTH ENVIRONMENTAL ACTION PROGRAMME PERSPECTIVE**

**Score: 4 out of 10**

### **Starting point**

The EU's Sixth Environmental Action Programme (6EAP) came into force in July 2002, laying down legally-binding commitments and obligations for the next decade. It reflects the joint commitment by the European Parliament, Council and Commission and thus provides an important benchmark against which to evaluate environment policy's evolution. A mid-term review was originally envisaged for 2006 and is now expected in mid-April 2007.

### **Performance to date**

Last year, a comprehensive EEB assessment revealed that most 6EAP objectives had not been achieved and it is even questionable whether they will be met by 2012. Reasons for this include the changing policy climate where environmental issues are not accorded the same importance as economic and social issues. The 'Better Regulation' agenda also impedes more ambitious environmental laws. Only in recent months has recognition begun to re-emerge that environmental policies make a necessary and positive contribution to future prosperity. Thematic Strategies are often empty vessels, devoid of targets or postpone or avoid appropriate action (eg Air, Marine, Natural resources, Urban and Waste Thematic Strategies), and in the worst cases result in environmental roll-back (eg Air and particularly Waste). Action taken thus far to protect biodiversity is inadequate to achieve 6EAP's objectives. We question whether the 'new' type of legislation, the Framework Directive, which calls for more reporting and process requirements than common targets and deadlines, and builds on delegating regulatory decision-making to comitology and regulation (standardisation), is the right approach. Deploying effective legislation to achieve EU environmental objectives is decreasing. Finally, integrating environmental objectives into other policies, as required by 6EAP and Article 6 of the Treaty, is still poor (particularly in transport and agriculture).

### **Still to do**

The Commission must reconfirm the EU's essential role in leading and coordinating environmental policies for the region and globally. It should also reconfirm the basic principles for environmental policies (polluter pays, precautionary, preventive action, and rectification of pollution at source). We also expect the Commission to support genuinely better regulation which accepts the urgency of legally-binding targets for sectoral policies, and gives preference to laws with clear, enforceable environmental targets, and halts environmental roll-back. The Commission should show leadership by using economic instruments to launch a major initiative for environmental fiscal reform, agreeing on an EU policy to phase out environmentally-harmful subsidies, and tackle the enforcement backlog. It is also important to do more to show the positive impact of environmental policies on people's wellbeing and prosperity by introducing an alternative to GDP growth as the EU's main indicator of progress. The Commission should take the necessary initiatives to achieve this.



## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: AGRICULTURE AND RURAL DEVELOPMENT PERSPECTIVE**

**Score: 6 out of 10**

### **Starting point**

The Barroso Commission took on agricultural policy in the wake of the 'Fischler Reform', arguably the most radical ever reform of the Common Agricultural Policy (CAP). This 2003 mid-term reform, although heavily diluted compared with original plans, has brought some important and positive developments to CAP. The introduction of cross-compliance has established the principle of making farm subsidies conditional on respecting existing environmental laws and basic good practice. Decoupling has greatly reduced the artificial drive for intensification and over-production, and modulation has brought a modest shift from out-dated subsidies to potentially more useful rural development. Although this Commission has taken on some sectoral reforms, the Agriculture Commissioner, Marian Fischer-Boel, made clear at the outset that a pause to allow full implementation of the 2003 reform was needed before any major new changes could be proposed. This has set the scene for a rather low-key, 'business-as-usual' agenda, mainly concentrating on implementation. Further reform has been promised in the context of the 2008 'CAP health check'.

### **Performance to date**

This Commission has achieved nothing exceptional in this sector, but nor has it done anything outrageous. From an environmental standpoint, the most important issue covered by the Commission during its first half-term was setting up the new Rural Development (RD) policy for 2007-13. RD offers huge opportunities for environmental improvements and is one of the main delivery tools for co-financing the Natura 2000 network. Although national planning is still progressing, it seems that Member States' use of RD funds will vary widely, ranging from effective funding for nature conservation and water quality, to ineffective schemes and even highly damaging investment. This Commission has recommended major improvements to RD policy both in the Regulations and European Strategic Guidelines. It has made environmental objectives clearer and more binding. It has designed specific tools to support Natura 2000 and implementation of the Water Framework Directive. And it has strengthened the partnership principle. The Commission has made great progress in introducing a common framework of meaningful indicators including, for the first time, environmental baseline indicators and impact indicators. Unfortunately, these positive developments have been partly offset by the Council's decision to slash the RD budget in view of the 2007-13 budget deal. Actually delivering RD policy will largely be determined by the Commission's courage in enforcing EU strategic guidelines in approving Member States' plans. A second highly positive development by the Commission is transparency in EU subsidies. Administrative Affairs Commissioner, Siim Kallas's bold initiative has at last exposed EU subsidies to full democratic scrutiny and informed political debate. But we regret that the Commission has caved in to pressure from a few countries by allowing full disclosure of CAP subsidies to be delayed until after the 2008 'health check'. This seems designed to ensure the debate occurs in the absence of vital information. The Commission has also been lax in ensuring proper and even-handed implementation of Cross Compliance across Member States. Although it was clear from the start that some countries had ducked their legal obligations in this field or implemented EU regulation poorly or ineffectively, the Commission has thus far failed to intervene. We hope it will use the CAP 'health check' to ensure high quality EU-wide

implementation. More generally, the Commission's involvement in the CAP debate seems to reveal its cooling commitment to a greener and more sustainable CAP. While the biodiversity crisis and serious problems with water quality seem to be left in the shade, the Commission often shows uncritical enthusiasm for developing first generation biofuels with scant regard for sustainability concerns and no clear guidance on greenhouse gas emissions reduction. The expansion of energy crop schemes with no environmental strings attached is decidedly a step in the wrong direction.

### **Still to do**

This Commission's real tests in agriculture have still to come. The most pressing is approving Member States' Rural Development plans. The Commission is obliged to ensure that plans adhere to EU laws and guidelines and deliver EU objectives effectively. Here, the Commission must show unshakable commitment. Allowing some countries to get away with substandard plans not only harms the environment but also undermines RD's credibility and jeopardises CAP's forward-looking aspects. The CAP 'health check' and EU budget review will prove even greater challenges. The Commission must devise bold proposals to transform CAP into a truly sustainable policy in 2013, and implement worthwhile steps well before then. It must identify a credible path to phasing out environmentally-harmful and ineffective subsidies and redeploying funds to provide clearly-identified public goods such as biodiversity conservation, water quality improvement and climate change adaptation and mitigation.

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: ENERGY PERSPECTIVE**

**Score: 6 out of 10**

### **Starting point**

EU energy policy has a major impact on achieving environmental goals, and particularly on resource use and climate change. This Commission inherited a weighty package of legislation and policy proposals under discussion to promote more efficient energy use and alternative, renewable sources. Energy efficiency was addressed in various sectors, including household appliances, energy performance of buildings, and more efficient co-generation of heat and power. A target was already in place to double the share of renewable sources of energy in EU gross domestic consumption to 12% by 2010, with a Directive on electricity use spelling out an EU-wide target (21% renewable share in gross electricity consumption) and indicative ones for each Member State. By 2004, success had been mixed, with notable progress in countries using feed-in tariff systems, including Denmark, Germany and Spain. A biofuels Directive also broke down a 5.75% EU-wide target for individual countries. A renewable sources Directive for heating and cooling had been promised since 2001, and was allegedly in preparation.

### **Performance to date**

The Commission made progress on energy efficiency by developing a more coherent strategy with the long-term target of reducing Europe's total primary energy consumption by at least 20% by 2020, which was outlined in a 2005 Green Paper. This target was formally adopted in the Energy Efficiency Action Plan, published in October 2006 and endorsed by the Energy Council shortly afterwards. The plan unfortunately falls short of putting Europe on track to meet this target. While the paper recommended a variety of measures, it was unfocused and was particularly weak on transport. Similarly, other energy efficiency legislation concluded under this Commission has lacked substance, as the Energy Services Directive, which entered into force in May 2006, contained no binding targets following Member State opposition. Another Directive on Energy-using Products was adopted in 2005, but the implementing details are still to be decided in technical working groups. Regarding renewable energy, a legally binding follow-up target for the existing general and sectoral electricity target was needed to ensure long-term support and investment security. Additionally, a Directive to support the development of renewable energy in the heating and cooling sector, including a sectoral target, was urgently required. Sadly, the Commission failed to agree on all of the necessary elements. It ultimately just offered a binding target of 20% of primary energy by 2020 and a new sectoral target for biofuels (see TRANSPORT), both of which were adopted as binding by the 2007 Spring Council. The Commission has not yet proposed cutting subsidies and state aid to nuclear energy and fossil fuels. It is late in delivering a Communication on coal-mining subsidies, which averaged to €11m/day during 2005. Consequently, it has failed so far to make any statement on the future of coal state aid. The Commission has taken one step to limit state aid in the nuclear sector through the adoption of non-binding guidelines on funds for reactor decommissioning and radioactive waste management. The Commission's integration of energy into a climate and energy package was a novel and important initiative, and while the package ought to have been more ambitious, it placed necessary emphasis on renewables and energy efficiency.

## **Still to do**

Much remains to be done if this Commission's energy policy is to live up to its environmental credentials. Without strong action on efficiency and renewables, emissions reductions to meet the new climate change targets will be even harder to achieve. It is thus essential that the Commission rapidly and effectively implements the Energy Efficiency Action Plan by strengthening existing and introducing new laws. The proposal for an international agreement on energy efficiency is sound, providing the key actors in various sectors are identified and agreement can be reached on commitments on a scale and in a timeframe that delivers real climate benefits. Establishing rigorous efficiency standards which will lead to the early phase-out of a variety of inefficient products under the Energy-Using Products Directive is a crucial element in reaching the 20% energy savings target. Broadening the scope of the Energy Performance of Buildings Directive will be another key area. The proposal of a good quality Renewables legislation in 2007 will be crucial to developing the policies and measures needed to meet the 20% renewables by 2020 target. Specific policies are urgently needed to promote renewables in electricity and heating and cooling. The Commission must develop a formula for fair and efficient sharing of efforts by all Member States to meet renewables and energy-efficiency targets, which is consistent with the greenhouse gas emissions reductions target sharing. Any support to biofuels must be accompanied by strict sustainability guarantees. The guidelines on nuclear decommissioning funds must be made binding as part of the planned overhaul of electricity internal market law which begins in 2007. The Commission must also state the need to phase out coal subsidies by 2010, when the current regime expires

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: TRANSPORT POLICY**

**Score: 5 out of 10**

### **Starting point**

The Barroso Commission arrived to find a Common Transport Policy that had demand management, transport pricing and modal shifts as important pillars, at least in theory. In practice, the previous Commission had issued a flawed proposal to review the lorry charging 'Eurovignette' Directive, a proposal that was pending in the Council. The previous Commission had also embarked on a new push for Trans-European transport networks with the definition of 30 priority projects worth €225bn, and a €45bn programme to invest in transport in neighbouring countries.

### **Performance to date**

The new Commission's performance on overall transport policy has been very disappointing. It issued a mid-term review of the Common Transport Policy that prided itself on dropping the commitment to managing transport demand ('decoupling') and weakened a commitment to shift transport to more environmentally-friendly modes. Strikingly, these changes blatantly contradicted the reviewed Sustainable Development Strategy which EU leaders had adopted only six days earlier. On transport pricing, a critical instrument for achieving a more sustainable transport sector, this Commission has failed to take a single initiative. We have seen a proposal on airport charges, but this was aimed to prevent over-pricing by airports and did not internalise external costs. A promised communication on airport and port charges has been postponed. Under current plans, this Commission's only achievement will be a Communication on a charging framework by June 2008. On investment in transport infrastructure, the Commission has also retreated more than it has advanced. The budget for Trans-European Networks was doubled to €8bn, but funding is not linked to deep social, environmental and economic project assessment. Although the new Cohesion Fund Regulation clearly incorporates clean urban transport and public transport as priorities, countries have been allowed to allocate just 10% of their transport spending to this objective. Finally, the rule that half of cohesion funds should be spent on environmental projects has been dropped, unleashing a sharp rise in transport spending. This Commission has also encouraged regional airports and airlines with clear guidelines on state aid for start-up connections, bringing a flurry of subsidy approvals.

This Commission has been quite active in tackling transport emissions at source, particularly after the 'greening' of the political mood in autumn 2006. But the proposals on Euro 5 standards fell short of addressing environment and health concerns and were very unambitious. The Commission also weakened the oldest EU climate target, for fleet-average CO<sub>2</sub> emissions from new cars, from 120 to 130 g/km by 2012, following heavy German lobbying. But it did acknowledge that the voluntary approach to tackling CO<sub>2</sub> from new cars is failing and a legally-binding approach is needed. The Commission has also helped inflame the biofuels frenzy and has shown only very limited concern at the potentially harmful environmental impact of widespread biomass cultivation. On the plus side, the Commission introduced a new climate target for transport fuels, namely a 10% reduction of 'well-to-wheel' greenhouse gas emissions per unit of energy by 2020. NGOs broadly endorsed this approach. The Commission also offered to include all flights to and from Europe in the European Emission Trading System, amid strong resistance from non-EU countries. But this move is only a tiny step in the right direction. Finally, the

Commission proposed raising the minimum tax rate for diesel, which is needed to internalise external costs and avoid 'fuel tourism'.

### **Still to do**

The Commission must re-introduce demand management in transport policy, and take a resolute lead on transport pricing. It must also take a stricter line on infrastructure projects which cross nature areas. The decisive action on referring the Rospuda Valley case to the European Court of Justice should set a new precedent. The Commission should also define a target to reduce transport greenhouse gas emissions by 2020. This will be necessary after the commitment to reduce Europe's greenhouse gases by 20% by 2020. It must propose Euro VI heavy-duty engine emissions standards at least as strict as in the USA. It should introduce CO<sub>2</sub> legislation for new cars, which will double their fuel efficiency by 2020. It should propose including shipping in EU ETS and EU standards for marine bunker fuel. The Commission should propose an EU kerosene tax under Enhanced Cooperation. And it must use negotiations with EU countries on their 'operational programmes' for using EU funds, and the Green Paper on Urban Transport, to promote more investment in environment-friendly transport systems.

## **G-10 MID-TERM REVIEW OF EUREAN COMMISSION: CLIMATE CHANGE PERSPECTIVE**

**Score: 7 out of 10**

### **Starting point**

When this Commission entered office, the Kyoto Protocol had been in force a few months, and policies to ensure compliance with EU reduction targets adopted. Renewable energy targets had been agreed, support measures were being implemented by Member States, and discussions were underway on strengthening policies to improve energy efficiency (see ENERGY). Details for national implementation of the EU Emission Trading System (EUETS), adopted under the previous Commission, were being agreed with governments before the start of the system in 2005. Progress on Kyoto targets was slowing, as greenhouse gas emissions, particularly from transport (See TRANSPORT), were rapidly rising. The previous Commission had begun exploring future climate targets and policy beyond Kyoto's 2012 timeline.. It was left to the Barroso Commission continue these discussions.

### **Performance to date**

The Commission's first forays into climate policy were not encouraging. President Barroso famously declared his priority as implementing Lisbon agenda (to tend to the economy as the 'sick child') to the detriment of environmental issues, including climate change. The 2005 Post-2012 Communication (days after the 'sick child' announcement) was a good first step in defining Commission thinking, but it was quickly evident that its scenarios could not match the problem's scale. Unfortunately, the 2007 follow-up paper failed to go the whole way to improve this situation, and also did not explore a scenario which would offer an acceptable chance of avoiding dangerous climate change. In its 2007 Communication, the Commission proposed future targets for the EU for greenhouse gases, and its '20% unilateral- 30% conditional' formula was agreed at the 2007 Spring Council. The emissions targets were adopted along with renewable energy and energy efficiency targets. However, overall progress on energy-related measures was mixed (see ENERGY). At international level, the Commission helped lead efforts to advance talks on future frameworks, with positive outcomes in 2005 and 2006, although progress is slow. The EUETS had a fundamentally disappointing start, and the Commission was unable to remedy lacklustre implementation, by EU countries, which kowtowed to their national industries and issued too many free emissions allowances for 2005-7. However, the Commission's approval process has become much stricter for 2008-12, and, hence, real emissions cuts of about 6-7% compared to today are expected by the scheme in that period. A proposal to include aviation in the ETS was published in 2006 (see TRANSPORT). Enlargement has seen the entry of several countries that either do not have Kyoto targets or do not need to make further cuts, but were nevertheless obliged to apply the '*acquis communautaire*'. The Regulation on Fluorinated Gases, adopted in 2006, does not take into account the existence and the availability of climate-friendly alternatives to most uses of these substances and fails to tackle the growing emissions of these extremely potent greenhouse gases within the EU.

This Commission has channelled more resources into addressing climate change in its own services, a welcome indication that it recognises its importance. This included funding an EU-wide awareness-raising campaign with the message to citizens that "you control climate change".

## **Still to do**

The Commission's great challenge will be to secure Member States' commitment to Europe's fair share of the effort to win the climate change battle (at least domestic 30% reduction by 2020) and find ways of dividing the target internally. In addition, the Commission will need to maintain the strong line on the EU ETS trading period for 2008-12 as an important means to ensure Kyoto targets are met. But when reviewing the ETS for the post-2012 period the Commission needs to address key issues such as more harmonised allocation and full auctioning of permits and a strict quality and quantity control of project credits entering the EU ETS from outside. The Commission also needs to bring in new legislation to deliver policies and measures on sectors such as transport, buildings etc to fulfill the climate and energy targets agreed at the March 2007 Spring Council. The long-awaited Adaptation Green Paper is a needed complement to existing climate change Communications. Internationally, Europe must take the lead to ensure that a fully-fledged mandate to begin negotiations on post-2012 is agreed at the December 2007 UN climate summit. The challenge then is to reach agreement by the end of 2009 on a post-2012 treaty which can limit temperature increase to below 2 degrees Celsius, through achieving the required emissions reductions, supporting sustainable development and helping vulnerable nations adapt.



## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: BIODIVERSITY PERSPECTIVE**

**Score: 5 out of 10 (But 2 out of 10 on GMOs)**

### **Starting point**

The current Commission, like many of its predecessors, actually promised very little on biodiversity at the outset. This subject seems not to have received sufficient importance from the start, but all the Commissioners and their officials, sooner or later realise it is an issue which is closely linked to high-profile issues such as climate change, poverty reduction and sustainable development in general, and which also attracts increasing public attention in its own right. Although in this field there were no additional overarching commitments beyond those already outlined in the Sixth Environmental Action Programme, we should judge the Commission against the 2010 target of halting biodiversity decline, an approach derived from the Gothenburg Summit and the Sustainable Development Strategy.

Regarding genetically modified organisms (GMOs), despite mounting evidence showing the problems and risks that these organisms pose to human health and the environment, this Commission has, from the start of its mandate, shown itself willing to allow new GM products onto the EU market. What is more, much as the previous Commission did, it has decided to leave to Member States the responsibility to solve crucial problems like co-existence and liability, adopting a 'wait-and-contaminate' approach, allowing GM contamination to harm biodiversity.

### **Performance to date**

Over the past two-and-a-half years, this Commission has been responsible for several actions which have both positive and negative impacts on biodiversity protection. Without doubt, among the Commission's best actions was publishing a strong, comprehensive and ambitious Biodiversity Communication and Action Plan in May 2006. The Communication and Action Plan cover all the priority issues and areas on how to reach the 2010 target. Although this was significantly delayed, albeit mostly owing to problems with the previous Commission, the outcome was very positive, particularly because of the clear commitment to existing nature legislation and the forthrightly expressed need to integrate biodiversity objectives into other EU policy sectors. Also, the Environment Commissioner has increasingly confirmed in public that biodiversity is just as high a priority as climate change, and indeed is intertwined with it. This has become especially relevant following the publication of the Millennium Ecosystem Assessment report in 2005. Judging by its actions, the Commission has recently appeared ready to impress on Member States the importance of implementing the Nature Directives and to take legal action when they fail to comply, such as over Natura 2000 site designation, or incorrect implementation of the Nature Directives regarding site protection or hunting law. The Commission has also worked innovatively to promote funding for Natura 2000 from various EU sources, but this work then seems to have been neglected, with no structures to follow up and check with EU countries whether the theory has materialised in practice.

Regarding GMOs, the Commission has responded to mounting pressure from civil society and the bulk of Member States by publicly criticising the European Food Safety Authority for failing to conduct long-term evaluations of GMOs, for not addressing GMO plants' negative impacts on bio-diversity, and for ignoring EU countries' scientific objections to specific GMO applications. The Commission has

also announced measures aimed at improving the risk assessment for GMOs to be sold in Europe, although it has yet to take substantive steps in that direction.

On food safety, the Commission responded quickly and robustly when it was told about several cases of imported food contaminated with illegal and untested GM strains. This led to temporary bans on US long-grain rice imports. However, in the case of contamination of conventional and organic crops by GMOs grown in Europe, in Spain for example, the Commission is still failing to come up with measures that would prevent such contamination. This is slowly but surely undermining the integrity of conventional and organic farming, and EU consumers' and farmers' freedom of choice. In general, the Commissioners for Environment and Health have taken a more critical approach to GMOs than their predecessors in the Prodi Commission. Overall, the Commission has shown little willingness to ensure the full implementation of existing EU legislation on GMOs.

The single worst outcome for biodiversity was the Commission's position on LIFE+ and the lack of follow-up with Member States on financing Natura 2000 efforts. DG ENV from the outset opposed inclusion of the nature and biodiversity theme in the LIFE+ Regulation and pressed for a decentralised approach to managing the fund. Despite the EU's commitment to halting biodiversity loss, EU money has been spent on activities the Union itself has recognised to be a major threat. We hope this will change in the new Financial Period 2007-13. Overall the Commission, especially with the accession of the latest nations, clearly lacks the capacity to act as Guardian of the Treaty and enforce nature legislation in EU countries. Despite some positive moves, there are numerous infringements and the Commission clearly suffers from 'infringement fatigue'.

There is still no significant progress to report on the integration of nature and biodiversity objectives into the work of DGs other than DG ENV. The involvement of DG AGRI, REGIO, ENTERPRISE, FISH and others in meetings and activities initiated by DG ENV is still far from satisfactory, and NGOs have serious concerns about the current Commission's ability ultimately to overcome this divide. Concerning governance, capacity constraints in various DG ENV units mean that despite their generally open attitude to stakeholders, meetings are usually disorganised and last-minute. This makes progress and working relationships ineffective and means that meetings lack leadership and clear agenda-setting.

On GMOs, the Commission is putting the environment and European citizens' health at risk by forcing new GM products onto the EU market. This has happened despite widespread public opposition to GMOs, and disregarding mounting evidence of the risks of GMOs, particularly to biodiversity and food safety, and despite the absence of EU-wide and national measures to avoid contamination. This Commission has also repeatedly tried to force EU countries to lift national bans on various GM foods and crops and has relied exclusively on the opinions of the much-criticised European Food Safety Authority, disregarding Member States' objections and other independent scientific opinions. The Commission has also failed to react to alarming signals voiced by independent scientists concerning the food safety of GMO products already on the market. In the mid-term review of its EU Biotech Strategy, the Commission has recently called for increased financial and political support for agriculture biotechnology, despite evidence that environmentally-friendly farming practices will create more jobs and make the EU more competitive.

## **Still to do**

Fully implementing the Biodiversity Communication and Action Plan clearly needs to be the priority for the remainder of this Commission's term. This covers all issues ranging from promoting the need to halt biodiversity loss at the highest level (also in the context of climate change), integrating biodiversity into other policy sectors, to ensuring financing for Natura 2000 (including effective use of LIFE+). Consistent enforcement and adequate financing of Natura 2000 are two essential elements for generating the necessary stakeholder support for the EU's existing nature legislation, which forms the core of EU action for biodiversity. Ultimately, whether Member States reach the 2010 target or not will also reflect accordingly on the Commission. Finally, the Commission as with climate change must do more to promote the link between biodiversity conservation and prosperity and EU citizens' wellbeing. The Commission must continue to stress at the highest level that biodiversity loss is just as important an issue as climate change. It must act as Guardian of the Treaty, and play a key role in implementing the Communication on Biodiversity and its Action Plan, which must become a high priority for all DGs. That involves taking implementation and its related activities more seriously. It must organise the various committees better, dealing decisively with Member States which infringe the law and promoting and monitoring proper integration of Natura 2000 financing in various EU funds. It must also ensure LIFE+ is used effectively to support biodiversity.

The Commission must also do more to prevent damage to biodiversity from the release of GMOs into the environment. In particular, it must grant proper implementation of existing EU legislation on GMOs, and ensure that the EFSA respects strict standards. To date EFSA has relied too much on data provided by the biotech industry, and has ignored long-term effects of GMOs, diverging scientific opinions and scientific uncertainties at the point of authorising products. Until a serious review of the currently flawed risk assessment and risk management procedures performed by EFSA can be carried out, the Commission should suspend the current authorisation process for GMOs. It should also address the lack of transparency of the authorisation process, which has been criticised by several countries. And in defiance of EU law, the Commission has regularly denied public access to data related to the risk assessment of GMOs.

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: MARINE PROTECTION PERSPECTIVE**

**Score: 2 out of 10**

### **Starting point**

This Commission entered office following the adoption of a reformed Common Fisheries Policy and a thorough EU consultation on developing a new strategy to protect European seas. Under the then Dutch Presidency, the marine strategy review had culminated in the adoption of a detailed analysis of European marine protection's shortcomings. The review had adopted the vision for Europe's seas: "that both current and future generations can enjoy and benefit from biologically-diverse and dynamic oceans and seas that are safe, clean, healthy and productive." The new Commission was charged with developing the political tools to realise this vision.

### **Performance to date**

The past two-and-a-half years have seen fresh political emphasis on protecting Europe's seas and managing maritime activities. The Commission, by proposing a Marine Strategy Directive, which is to achieve a 'good' environmental status for Europe's seas, confirmed its commitment to achieve biologically-diverse, clean and healthy seas. The Directive is urgently needed if Europe is to resuscitate its failing fisheries, 70-90% of which are reported as overfished, and protect its coastal zone, 86% of which is believed to be at moderate-to-high risk from unsustainable development.<sup>1</sup> Sadly, the Commission's proposal is desperately inadequate. It fails to define specific targets and actions, leaves most management decisions to national governments, and is unclear regarding the degree of ambition which is needed to achieve a healthy marine environment.

The Barroso Commission also risks leaving the EU with disjointed and conflicting ocean policies. In parallel with the Marine Strategy Directive, the Commission launched a consultation process on a Maritime Policy, which is designed to encourage a more economically-competitive and prosperous EU maritime sector. If the policies resulting from this process fail to limit activities in the seas to sustainable levels and to protect Europe's coastal zone, 86% of which is at moderate-to-high risk from unsustainable development, the Maritime Policy may in fact aggravate the existing conflict between maritime industries and coastal and marine ecosystems.

The most prominent crisis in Europe's seas, both in terms of policy development and implementation, is relentless mismanagement of EU fisheries. The Commission's limited action to reduce the environmental impact of fishing has failed to protect fish stocks and their habitats from collapse and the threat of extinction. Conversely, some decisions, such as subsidising vessel modernisation, are aggravating the situation.

The European seas crisis has worsened, and the Commission's performance has so far not shown significant improvement. However, if the Commission rigorously implements the reformed Common Fisheries Policy and designs strong environmental policies in the context of the Marine Strategy Directive and Maritime Policy, it can still engender a more sustainable marine environment.

### **Still to do**

EU countries are now over nine years overdue in implementing EU laws to protect coastal and marine areas (Habitats and Birds Directives). The Commission must hold

them to account, not least under the Convention on Biological Diversity (CBD, Decisions VII/5 and VII/28) and the World Summit on Sustainable Development (WSSD) Johannesburg Plan of Implementation. The EU must establish a comprehensive, effectively-managed, and ecologically-representative national and regional system of protected areas, including marine and coastal protected areas where extractive uses are excluded, and other major human pressures are removed or reduced.

The Commission must:-

- Strengthen its commitment to a strong Marine Strategy Directive (at least) to match the European Parliament's ambitions for stringent marine protection during the Directive's second reading
- Encourage EU leadership in protecting the high seas in international negotiations, principally such as banning destructive fishing practices (eg bottom-trawling) and establishing a network of high seas reserves. In particular, the Commission should work with countries to identify various pilot reserves on the high seas at the next Conference of the Parties of the Convention on Biological Diversity in 2008
- Harmful fisheries subsidies should be eliminated through the ongoing WTO negotiations
- Seize the initiative and immediately devise laws, policies and structures to:-
  - i) reduce EU fishing effort and capacity (including by EU-led decommissioning scheme and end to subsidies for measures that increase effort/capacity)
  - ii) ban destructive fishing practices
  - iii) prevent and punish illegal, unregulated and unreported (IUU) fishing (including by EU vessel blacklists, centralised VMS schemes, harmonised penalties for IUU)
  - iv) deploy ecosystem approach, especially in fisheries (also through no-fish zones)
  - v) reduce the incidental bycatch of seabirds, sharks, marine mammals and other species in the Community's internal and external fisheries (including by devising targeted action plans)
  - vi) fully integrate environmental thinking into all policies affecting Europe's seas
- Propose measures that will guarantee the recovery of fish stocks at the latest by 2015 (WSSD target), building on the precautionary principle and integrating adaptation strategies in the light of existing climate change predictions

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: CHEMICALS PERSPECTIVE**

**Score: 3 out of 10**

### **Starting point**

In October 2003, the Prodi Commission presented a proposal to reform EU chemicals law, the REACH (Registration, Evaluation, Authorisation & Restriction of Chemicals) regulation. The European Parliament adopted its First Reading opinion in November 2005, followed by a political agreement in Council the next month. A final Second Reading agreement was approved in December 2006 and REACH will come into effect on 1 June 2007. Most of the legislative process occurred under the Barroso Commission, which mainly upheld the interests of large chemicals companies. Several of the original reform proposals' crucial provisions (2001) were further deleted and diluted owing to interventions from Enterprise Commissioner, Günter Verheugen, and backed by Mr Barroso.

### **Performance to date**

The Treaties specify the Commission's institutional role of drafting compromises that help Parliament and Council reach agreement. But in REACH's case, the Barroso Commission acted unilaterally, and rejected many amendments that would have considerably strengthened innovation, and health and environmental protection, while agreeing to weaken safety data requirements. Under Barroso, the College of Commissioners never debated the economic, environmental and social benefits of a strong substitution requirement, thus missing a golden opportunity to deliver its stated 'Lisbon objectives' of boosting economic innovation alongside environmental and social improvements. During the final phase of the REACH legislative process (2005-6), this Commission acted, at best, inconsistently. The Environment Commissioner, Stavros Dimas, repeatedly stated that a legal incentive for substitution would be a win-win solution for environment, health and innovative business, but the Enterprise Commissioner successfully worked behind the scenes to block progress in that direction. These manoeuvres, backed by Barroso and Verheugen but never discussed or approved by the College, resulted in considerably lower safety requirements in REACH. While President Barroso repeatedly insisted that sustainable development is an EU priority, and that his Commission aims to promote environmental and human health protection within the Lisbon Strategy, in REACH's case, the short-sighted interests of large chemicals companies seem to have weighed most heavily.

### **Still to do**

Many key decisions on identifying and regulating hazardous chemicals are postponed until future REACH reviews. The Commission will review essential annexes under REACH in 2007-8 using the comitology procedure. These include reviews of substances currently exempted from registration, Chemical Safety Reports and safety thresholds for hazardous chemicals, and the criteria to identify persistent & bioaccumulative chemicals. In this process, the Commission must ensure the forthcoming reviews strengthen the law and that the new European Chemicals Agency operates independently of the chemicals industry, and defends public interests in health, environmental and worker protection by stimulating green innovation in the chemicals industry.

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: ENVIRONMENT AND HEALTH PERSPECTIVE**

**Score: 5**

### **Starting point**

In 2005, the Barroso Commission took over implementation of the EU Action Plan on Environment & Health 2004-10, comprising 13 tasks, the bulk of which focused on further environmental and health research and establishing an information and human biomonitoring system, the better to understand people's actual exposure to pollutants, disease trends and EU environmental policy responses. The Action Plan was short on action, and failed to deliver substantive measures on strengthening current EU policies to reduce environment-related diseases. It focused on four priority diseases relating to environmental risk factors: childhood cancer, respiratory health, cardiovascular disease, and brain development disorders.

### **Performance to date**

The Barroso Commission has not been ambitious enough in tackling many of the growing health challenges stemming from the current state of the environment and sustainable development which were set out by the Prodi Commission and have been highlighted by the World Health Organisation. The Commission has made little progress in devising risk-reduction strategies and laws linked to current environmental policies on the priority diseases, despite abundant opportunities such as the REACH negotiations, and revision of air quality and pesticides laws, all of which fall under the 6EAP chapter on environment and health. The Directives announced in the Thematic Strategies have either been delayed or have been too weak. The EURO 5 proposal for cars and light-duty vehicles came out far too late and its limit values were too lenient and would come into force too late. New emissions limits for heavy-duty vehicles have yet to be proposed: lorries are major polluters in towns. The Commission has also yet to draft laws to reduce nitrogen oxides from shipping, despite promising a proposal by the end of 2006. Emissions limits for vehicle and tyre noise have also not been strengthened, even though this is a 6EAP objective.

There has been progress on coordinating EU human biomonitoring surveillance activity, but greater emphasis is still needed for the policy implications (ie REACH) and more resources are needed for population-based surveys. On the negative side, the Commission published a paper on the Review of the Environment & Health Information Needs which downplayed the environmental burden of diseases and their cost without adequately spelling out the uncertainties and gaps in our current knowledge base. Another shortcoming has been that emerging health threats such as nanotechnology remain obscure and outside the regulatory arena, while receiving major EU research funding to advance the technology. And many environmental health standards and limit values (such as current air quality limit values for fine and coarse particles) still do not provide adequate protection for vulnerable groups such as children, elderly, and health-affected groups such as asthma sufferers. The jury is still out on the Commission's intended Mid-Term Review of the EU Action Plan to be presented in Vienna at the Children Environment & Health Action Plan for Europe (CEHAPE) inter-governmental meeting in June, and it is not yet clear if it will propose specific actions for the Environment & Health Action Plan's second phase.

## **Still to do**

In the remaining period for implementing the first cycle of the EU Action Plan on Environment and Health (2007-2010), the Commission should increase information on environmental pollution and adverse health impacts and costs for public and policy development, and ensure research into the links between environmental pollutants, exposure and health impacts is fed into the existing EU policy and risk assessment regimes for better environmental and health protection. The Commission should also make visible progress on the Environment & Health Information System and delegate ownership of it, possibly by considering extending the mandate of the European Centre for Disease Prevention & Control to include non-communicable disease. We also expect the Commission to ensure special attention is given to vulnerable groups, particularly children, through greater political and financial support of the Children Environment & Health Action Plan for Europe (CEHAPE). Another action is to begin discussions on the feasibility of launching an EU Directive on a Human Biomonitoring Surveillance System with links to environmental policy legislation. The Commission should also ensure WHO Air Quality Guidelines are followed as a basis for relevant EU proposals and negotiations (for both outdoor air quality revisions and a strategy to improve indoor air quality). Additionally, it should propose sufficiently ambitious further measures to reduce pollution at source and more ambitious national emissions ceilings for 2020. Finally, the Commission should produce a coherent plan to ensure the best possible adaptation in all sectors to protect people's health against climate change effects, including heatwaves, disease control and flooding.



## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: FORESTS PERSPECTIVE**

**Score: 2 out of 10**

### **Starting Point**

In 2003, the Commission published the EU Action Plan on Forest Law Enforcement, Governance & Trade (FLEGT). The FLEGT Action Plan identifies several areas where the EU will combat illegal logging and its associated trade and enhance consumption of sustainably-produced products: Development and Cooperation, Timber Trade, Public Procurement, Private Sector Initiatives and Financing & Investment Safeguards. Implementation of the EU FLEGT Action Plan is partly being carried out through Voluntary Partnership Agreements (VPAs) between the EU and selected wood-producing countries. The VPAs focus on forest governance reforms and law enforcement, including developing a definition of 'legality' in a multi-stakeholder process. An EU Regulation obliges VPA partner countries to install a 'chain of custody' system and licensing scheme that guarantee the legality of certain categories of timber products imported by the EU from partner countries.

### **Performance until now**

Since September 2006, negotiations have begun with Malaysia, Indonesia and Ghana. Between December 2006 and March 2007, the Commission held a public consultation on additional measures to combat the illegal timber trade from an EU perspective. These options include strengthening VPAs, strengthening Voluntary Private Sector Schemes, import bans and legislation requiring that only legally-harvested timber and products enter the EU market. By implementing the EU FLEGT Action Plan, the EU has proven its global leadership role in combatting illegal logging and its associated trade. But we regret that publication of the report on additional measures to combat the illegal timber trade, promised for mid-2004, has been repeatedly postponed. On VPAs, the Commission ought to have drawn up clear guidelines to allow a fair assessment of the success or failure of VPAs and to ensure a level playing-field between VPA countries. Similar guidelines should have been developed to evaluate the reliability and performance of voluntary private schemes which may form the basis of the future FLEGT licensing scheme. Regarding the process of legality definition in VPA countries, it seems government-driven, and it remains unclear how far local NGOs and Indigenous People Organisations are able to comment during this process. On implementing a green Public Procurement policy for wood products, the EU should ensure that it only accepts certification systems with high environmental standards that do not cause or aggravate social conflict and accept indigenous peoples' rights. It is currently clear that some of the approved certification schemes do not fulfil these requirements.

### **Still to do**

The EU has committed itself to "substantially reduce the impact of international trade on global biodiversity and ecosystem services by 2010 and beyond"<sup>2</sup>. As a contribution, the Commission should suggest new environmental laws that require all timber and timber products on sale in the EU to come only from legal sources and responsibly-managed forests. Laws could help level the playing-field in Europe for progressive companies and address countries not covered by VPAs. To guarantee

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<sup>2</sup> EC Communication of 22 May 2006 on "Halting the Loss of Biodiversity by 2010 and beyond"

development of a thorough definition of legality in VPA countries and include all relevant stakeholders, the EU should develop some basic principles with VPA countries on what should be included in the definition of legality, including acknowledging multilateral environment agreements and international customary law. The new legality definition should lead to ecologically and socially-beneficial forestry and governance. The Commission should also shape “concrete policies and actions to halt emissions from deforestation in developing countries and reverse them within the next two to three decades”, as stated by the Environment Council in its conclusions of 20 February 2007. The Commission should urgently support implementation of the 2010 Biodiversity Targets and the CBD Programme of Work on Forest Biodiversity and Protected Areas to protect intact forest landscapes and high conservation-value forests and restore biodiversity, while fully respecting indigenous peoples’ rights. It should also increase direct funding for forest conservation and ecologically and socially-responsible forest use and trade, and champion the establishment of a permanent international financing regime.

## **G-10 MID-TERM REVIEW OF EUROPEAN COMMISSION: NATURAL RESOURCES AND WASTE POLICIES**

**Score: 3 out of 10**

### **Starting point**

The Sixth Environmental Action Programme's (6EAP) overall natural resources aim is to "break the linkages between economic growth and resource use" and to attempt to "ensure that the consumption of resources and their associated impacts do not exceed the carrying capacity of the environment." It also calls for "significant overall reduction in volumes of waste generated". To achieve these objectives, 6EAP envisages the development of two Thematic Strategies, one is to sustainably use and manage natural resources, and the other is on waste prevention and recycling. It also refers to other specific waste stream laws. The thrust of the Article on natural resources and waste is that we must progressively produce less hazardous waste, activities such as re-use and recycling should be given priority over recovery and disposal, products must be designed to be more sustainable, and other instruments (economic mechanisms, research, indicators, etc) must be developed to support the overall aims.

### **Performance to date**

In late 2005, the two Thematic Strategies were finally published, with a proposal for a revised Framework Waste Directive (FWD). The Thematic Strategy on the Sustainable Use of Natural Resources (TSSUNR) set out a 25-year vision to reduce environmental harm from using natural resources in a growing economy (decoupling), and to improve resource efficiency. The actions it advocated were designed to provide a framework for future attempts to meet 6EAP's objective. It disappointed most stakeholders, given the high ambitions at the start. The poor state of TSSUNR was aggravated by the approach taken in the Thematic Strategy on Waste Prevention & Recycling and in the proposal on the revised Waste Framework Directive. The latter most clearly exposed the weakening of the waste hierarchy, with a focus on waste treatment standards as part of an overall drive to find market-based mechanisms to deal with waste, instead of proposing further laws. Waste is one of the key policy areas to be examined under the 'Better Regulation' initiative. This is clear from proposals emanating from the Commission. Recent Parliamentary input (the Environment Committee vote on TSSUNR and the First Reading of the TSWPR and Directive on Waste) have considerably reinforced the Commission's proposals and provided more substance in devising mechanisms more likely to meet 6EAP's natural resources objectives.

### **Still to do**

The main areas for Commission action relate to reconsidering the overall approach on waste in the context of 'better regulation', the creation of Parliament's proposed Consultative Forum on Waste, focusing more on developing the Sustainable Consumption & Production Action Plan (SCPAP), and work on 'Beyond GDP' better to reflect the loss and degradation of natural resources. Better regulation on waste has brought proposals to use minimum standards and quality criteria instead of laws. Waste management requires strict and clear laws to reduce ambiguity in interpreting law, especially as waste tends to migrate to cheaper (and more environmentally-damaging) treatments, often outside the law. IMPEL, the network of enforcement authorities working on implementation legislation, has shown that at least half of all cross-border shipments of some waste materials are illegal. In some countries, the

figure can be up to 75%. Environmental objectives need EU-harmonised and measurable targets and indicators (on recycling and waste prevention, including re-use) to assess performance. SCPAP is to be finalised by late 2007, and the focus with this initiative should be on 'action'. SCPAP is an opportunity to link production behaviour to consumer behaviour, improving on environmental and social grounds how we use natural resources in the products we make and buy. The heart of the Action Plan should be clear legislation on ecological product design, incorporating 6EAP's objectives, including those on natural resources.

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<sup>i</sup> EEA (1999) Environment in the European Union at the turn of the century: Coastal and marine zones. Environmental Assessment Report No 2; EEA, Copenhagen

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