



EEB'S PRIORITIES FOR THE EUROPEAN UNION FOR 2014

ADDRESSED TO THE GOVERNMENTS OF GREECE AND ITALY AS WELL AS THE EUROPEAN COMMISSION

Brussels, 8 August 2013

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INTRODUCTION

In this background paper, the European Environmental Bureau presents its views on those issues that are expected to dominate the environmental policy agenda in 2014. Under the Irish Presidency, some major files have been more or less closed such as a new multi-annual budget for the EU, a new CAP and CFP and a new Environmental Action Programme. Although these have now become mostly an implementation issue, some newly introduced flexibility mechanisms in the EU budget mean that some limited opportunities remain at EU level to continue advocating for a shift from harmful to more beneficial policies and projects.

Others that are expected to be resolved under the Lithuanian Presidency may end up outstanding at the end of 2013. The elections for a new European Parliament in May 2014 and the composition of a new European Commission soon after that means that the legislative work will be less intense with few new proposals coming out of the Commission in 2014 and the European Parliament mostly busy with the elections and the aftermath before resuming its legislative work at full strength. It is only the Council which has some more opportunity to move ahead and adopt positions on certain files on which the European Parliament has been able to still adopt positions as well.

Aside from the work on specific legislative files, the election of a new Parliament and appointment of a new Commission provides the opportunity for EU to take a fresh look at

the overall direction of economic development over the coming years in the light of sustainability considerations by reviewing major strategies such as Europe 2020 and the EU Sustainable Development Strategy, a process in which the Greek and Italian Presidencies can and should play a central and proactive role.

The priorities indicated here may evolve over the coming months, but the paper nonetheless gives a broad indication of the environmental and environment-related issues that we consider will or should be on the political agenda in 2014 and how we believe they should be addressed.

1. REVIEWING EUROPE 2020: REINSTATING SUSTAINABLE DEVELOPMENT AS THE GUIDING PRINCIPLE FOR ALL DEVELOPMENT IN THE EU

While Europe's economic difficulties and the preoccupation with them are likely to continue in 2014, there is a growing recognition of the link between the economy and the environment, and that a sustainable exit from the economic crisis must take full account of social and environmental considerations. Concerns over security of supply of not only food but also raw materials for European industry are now starting to create a widespread awareness that continuing our resource consumption at current levels is no longer an option. The concept of the green economy has gained increasing support, with the EU's call for a green economy roadmap with concrete goals and targets having been one of its main demands for the Rio+20 Conference.

It is argued by the European Commission that the Europe 2020 Strategy attempts to bring together the three dimensions of sustainable development in the concept of 'smart, sustainable and inclusive growth'. The Resource Efficiency Flagship Initiative developed under its auspices made the effective decoupling of growth from resource consumption one of the political objectives of the Strategy and was followed by the adoption of a Resource Efficiency Roadmap. However, it is now clear that the delivery on this political commitment will be stretched out over the next decade with the real action taking place under specific individual policy cycles, with the main added value of the roadmap consisting of giving these individual policies high level political support. It has also become sufficiently clear that this will not turn the EU 2020 Strategy into a Sustainable Development Strategy and that either a radical overhaul of the EU 2020 Strategy or a new Sustainable Development Strategy is required.

In 2011 the EU embarked on a new approach to economic governance through the 'economic semester'. The primary driver for this exercise was the euro-crisis and the need to restore investors' confidence in the euro. The focus in 2011 was therefore strongly on balancing national budgets and cutting deficits. In 2012 and 2013 the focus of the semester has become broader, aiming to align national budgets and national reform programmes with the EU 2020 objectives. In 2014, it will be important to build on this trend and ensure that this tool is further developed and improved. First of all, the process should become more transparent and democratic with a stronger role for the European Parliament. Secondly, it should be used to green the economy, inter alia through shifting the tax base from labour to pollution and resources and through phasing out environmentally harmful subsidies, while

protecting against adverse social effects and short sighted cuts in investments in environmental protection.

As Europe continues to follow through on the outcomes of the Rio+20 Conference, 2014 should be a year in which sustainable development is restored as the overarching framework for all development in the EU. Under the Cyprus Presidency, the European Council called for the review of the EU Sustainable Development Strategy (SDS) as soon as possible and at the latest in 2014, and for the commitments in the Rio+20 outcome document to be implemented through the SDS and the Europe 2020 Strategy. The Council also stressed the need to consider and review, as deemed necessary and on a case by case basis, all other relevant EU and national policies, strategies and programmes, and to implement through them the Rio+20 outcomes.

It is essential that either the Europe 2020 strategy is transformed and re-oriented to become a true sustainable development strategy or failing that, that the SDS is revised, updated and given a central status in policymaking.

The EEB therefore calls on the Greek and Italian Presidencies to:

- Lead a debate on how to transform the current unsustainable model of development in the EU to an economy that respects planetary limits;
- Encourage a new European Commission to use the foreseen revision of the Europe 2020 Strategy in 2014 to make it a real EU sustainable development strategy that fully responds to the challenges identified by the Rio+20 Conference;
- Ensure that the European semester is used to maximum effect to promote the green economy, most importantly through socially just environmental fiscal reform and the removal of environmentally harmful subsidies.

2. EU-US TRADE AND INVESTMENT AGREEMENT

The United States and the European Union kicked off their negotiations on a “trade” and investment agreement, a proposed Trans-Atlantic Free Trade Agreement (TAFTA), also referred to as a Transatlantic Trade and Investment Partnership (TTIP) in the summer of 2013.

In their announcements, both parties noted that trade tariffs in the United States and European Union are already low, and that the proposed deal will focus in particular on "*regulatory issues and non-tariff trade barriers*". The process leading to the launch of TAFTA negotiations has been dominated by attempts to eliminate regulatory distinctions for the sake of narrow business interests. Industry representatives, organized since 1995 as the Transatlantic Business Dialogue, recently renamed the Transatlantic Business Council, have pushed for “harmonization” of divergent standards and elimination of “trade irritants” with the singular goal of easing their commercial activities. This framework not only threatens to weaken critical consumer and environmental safeguards, but at its core conflicts with the democratic principle that those living with the results of regulatory standards – citizens of our countries – should be able to set those standards through the democratic process, even when doing so results in divergent standards that businesses may find inconvenient.

As a general principle, the EEB believes that aiming for regulatory convergence can only be acceptable if it requires high standards of consumer and environmental protections and related compliance, and establishes a regulatory floor and not a ceiling. This means that a free trade deal must not limit the United States and the EU and its member countries from adopting and enforcing standards that provide higher levels of consumer, worker, and environmental protection than those required by a potential agreement, in response to emerging consumer demands and unforeseen crises. To impose a regulatory ceiling through this deal would land policymakers with the impossible task of anticipating all of tomorrow's policy challenges today.

Perhaps most importantly, a potential agreement between the United States and EU must not under any circumstance include an investor-state dispute resolution mechanism. Investors should not be empowered to directly challenge sovereign governments over public interest policies in offshore tribunals comprised of three private sector attorneys, skirting the well-functioning domestic court systems and robust property rights protections in the United States and European Union. The inclusion of such extreme provisions in prior trade and investment deals has enabled powerful interests, from tobacco companies to corporate polluters, to use investor-state dispute resolution to challenge and undermine consumer, public health and environmental protections. Investor-state tribunals have ordered taxpayers to compensate foreign corporations with billions of dollars for the domestic, non-discriminatory enforcement of such protections. To avoid such overreaching procedural and substantive investor privileges, greater than those afforded to domestic firms in either the United States or the EU, any deal must exclude investor-state dispute resolution. It is noteworthy that Australia and the US in their recently signed trade agreement did not include such a provision.

Finally, it is also essential that a proposal from the EU to introduce a streamlined procedure to amend the sectoral annexes of TTIP or to add new ones, through a simplified mechanism not entailing domestic ratification procedure, is rejected since this would allow negotiators to simply postpone agreements on some of the most controversial issues and include them later without the scrutiny of the European Parliament or Member States.

Whereas the EU-US negotiations are at a very early stage, negotiations on a free trade agreement between the US and Canada are at a much more advanced stage, and in those negotiations it has been proposed to include a provision on investor-state dispute resolution, which is a matter of great concern, in particular since it is the EU in those negotiations who is insisting on this the most.

The EEB therefore calls upon the Greek and Italian Presidency to:

- Ensure that bilateral trade negotiations between the EU and Canada and the US will lead to an upward harmonization of environmental standards and take the form of a regulatory floor, not a ceiling;
- Oppose the inclusion of an investor state dispute settlement mechanism in any trade agreements as this e.g. could make the EU and national governments liable to expensive lawsuits for passing environmental legislation.

3. REDUCING AIR POLLUTION

The review and revision of EU air pollution policy started in March 2011 and is expected to result in a new air package to be published by the Commission in autumn 2013. One of the main components of the package will be a revised Thematic Strategy on Air Pollution (TSAP), updating the previous one from 2005, establishing new targets for reducing damage to health and the environment as well as associated ambition levels for future cuts in air pollutant emissions. The TSAP will be accompanied by a proposal to revise the 2001 NEC directive and other measures to further reduce air pollution at the source.

The National Emission Ceilings Directive (NECD) is one of the pillars of the EU's air pollution control legislation. Its scheduled and long overdue revision is needed to set tighter limits on emissions of sulphur dioxide, nitrogen oxides, volatile organic compounds, and ammonia, plus first-ever national caps on emissions of fine particulate matter (PM2.5) and other pollutants such as methane and mercury. Those ceilings will be set for 2020, 2025 and/or 2030. The most important sources to be addressed by the new TSAP are emissions from small and medium scale combustion installations, agriculture and transport (shipping, road and non-road).

The EEB therefore calls upon the Greek and Italian Presidencies to ensure that the revision of the Thematic Strategy on Air Pollution contains:

- A clear objective of achieving by 2030 "levels of air quality that do not give rise to significant negative impacts on, and risks to human health and environment";
- Ambitious binding emission reduction commitments under the revised NECD for 2020, 2025 and 2030, including 2020 levels going significantly beyond those of the revised Gothenburg Protocol and the 2005 TSAP;
- Emission reductions for harmful air pollutants in the scope of the NECD, in particular PM2.5, mercury, methane and black carbon;
- EU-wide source control measures to limit emissions from transport, with a particular attention to shipping and non-road mobile machinery, from small and medium scale combustion and the agriculture sector;
- Continuous enforcement and strengthening of EU ambient air quality limit values, based on the latest scientific evidence and at least WHO recommendations;
- Action to reduce emissions of black carbon, methane and ozone, having regard to the fact that these air pollutants are also responsible for climate change;
- Better coherence between the objectives of the different air pollution Directives (e.g. NEC and Ambient Air Quality) with the aim of achieving the EU's 6th EAP objective, namely to ensure "levels of air quality that do not give rise to significant negative impacts on and risks to human health and the environment", in the shortest time possible.

4. PROTECT EUROPE'S SOILS

Europe's soil remains under increasing pressure. Both quantitative and qualitative degradation of soil presents a major threat to Europe's food security and limits our ability to tackle climate change and prevent the loss of biodiversity. The fact that all of Europe's

ecosystems and the services they provide such as water purification, waste decomposition and climate mitigation, are critically dependant on the health of our soils make it a natural resource of strategic importance for the EU. As such it should be afforded the deserved level of protection. Important progress should thus be achieved in 2014 in the field of EU soil policy through reviving the negotiations on the Soil Framework Directive, which for years has been blocked by a few Member States under pressure from their agriculture and polluting industry lobbies. The Presidencies will need to deliver on the commitment of the Member States and EP, agreed as part of the 7th Environment Action Programme (EAP), to reflect on how soil quality issues could be addressed within a binding legal framework.

The EEB therefore calls upon the Greek and Italian Presidencies to:

- Restart negotiations in the Council on the proposed Soil Framework Directive and achieve the adoption of a progressive Council position at first reading;

5. FIGHTING CLIMATE CHANGE, REDUCING OUR ENERGY CONSUMPTION AND PROHIBITING HFC GASES

The EU's current climate and energy policies adopted in 2008 are insufficient as a fair and effective contribution to addressing the climate crisis. The greenhouse gas reduction targets set, in combination with the large opportunities for use of the **Clean Development Mechanism** (CDM), and the counterproductive free allocations of emission rights under the **Emissions Trading Scheme**, undermine the credibility of the EU and an effective low-carbon objective triggering innovation inside the EU. In particular, because the EU has already reduced its emissions by 18.4% (as of 2011), the remaining reductions can mainly be achieved through banked emission credits and sponsorship of CDM projects. This makes the case for moving to at least a 40% emission reduction target for 2020 in order to remain below the 1.5°C threshold all the more compelling and increases the probability of us meeting it.

A further weakness of the current package is the lack of a binding target and adequate measures on energy savings. Prior to the adoption of the new Energy Efficiency Directive (EED), the EU was on track to missing by half the goal to save 20% energy by 2020, which as such is already quite weak considering the technical potentials. However, even the implementation of the EED will only close half of the gap and additional measures will be required. Further initiatives are also required to drive a cycle of innovative financing, to help leverage private third party capital.

As the EU begins the debate on a 2030 framework for climate and energy policies, it is crucial to ensure that the abovementioned shortcomings are addressed. Three targets that are legally binding at national level can help tap into such substantial benefits as reduced energy costs, greater energy security and job creation as well as in the global competition on technological innovation. The EEB believes that only with a new GHG target set at least 60% domestic reductions, a 50% primary energy savings target and a 45% renewable energy target. Moreover, these should be agreed well in advance of the 2015 international climate negotiations in order for the EU to table a concrete post-2020 emission reduction target.

Introducing more ambitious domestic climate policies that are consistent with remaining below the 1.5°C threshold also helps to address a number of the Europe 2020 objectives on building a green, low carbon economy combined with resource efficiency. The EU must also offer sufficient and credible financial assistance to support climate mitigation and adaptation policies for developing countries.

By continuing to invest in the UNFCCC process, the EU can work with others to secure a strong, fair and ambitious global climate change agreement. A new global legally binding instrument to enter into force in 2020 is set to be agreed in 2015. A credible negotiation strategy for the EU in our view must be based on target proposals that will effectively reduce climate change to 1.5° C, guarantees for sufficient EU assistance to climate mitigation and adaptation policies for developing countries, and a credible, improved, domestic climate policy. An ambitious 2030 climate and energy policy framework is the EU's best leverage to ensure an international agreement that will halt dangerous climate change.

In November 2012, the Commission published its proposal to revise the F-Gas Regulation, which aims to reduce the emissions of fluorinated greenhouse gases. In the EEB's view, the current regulation suffers from a lack of ambition and as a consequence would actually allow for an 82% increase in HFC emissions by 2050 compared to levels that existed at the time of adoption. This will fatally undermine the EU's objective of reducing emissions by 80-95% by 2050 compared to 1990 levels. During 2013, good progress was made in agreeing on a new regulation that will help transition the European market to alternatives, which numerous studies have found to be technically feasible, cost effective, energy efficient and available in almost all sectors by 2020 and in many cases earlier. The revised regulation should be agreed by early 2014 at the latest to allow for planning certainty for businesses in the form of placing-on-the-market bans on HFC-based equipment and products when alternatives can meet the market demand.

The Commission published a proposal in 2013 that should fix the incomplete accounting of carbon emissions from **biofuels** use by including the known but unaccounted emissions from indirect land use change (ILUC) by proposing a set of so called '**ILUC factors**' differentiated according to feedstock and biofuel type. The proposal also included a lowered mandate of 5% for biofuels made from foodcrops. It is unlikely however that this proposal will be agreed by European Parliament and Council in 2013 still, under pressure from in particular agriculture and industry interests, and this will therefore likely continue in 2014, potentially with a second reading.

A second proposal to ensure the sustainability of all biomass used for energy purposes which should include an accounting for the emissions caused by bio-energy as well as wider safeguards in relation to biodiversity, water and soil resources is still expected and may still be published in 2013, in which case first discussions on it could take place in 2014.

The EEB calls upon the Greek and Italian Presidencies to fight climate change by:

- Adopting ambitious EU climate and energy policies to set us on a path to a fully green economy that reduce energy dependency, improve security, create long term jobs and ensure a better quality of life for all. In particular:

- Agreement on an EU climate and energy policy framework for 2030, building on binding targets for greenhouse gas emission reductions, the share of renewable energy in the energy mix and energy savings;
- Action to meet at least a 30% greenhouse gas reduction by 2020 through domestic action, while working towards a 40% domestic reductions scenario;
- Structural measures to make the ETS fully effective with 100% auctioning of permits, and a significant share of revenue intended for investments in renewables and energy efficiency;
- Agreement on the EU's contribution towards the Green Climate Fund, which should amount to at least €35 billion per year by 2020 in additional money to developing countries for mitigation and adaptation support;
- Assess new areas of innovative and reliable financing for mitigation and adaptation needs;
- If not concluded under the Lithuanian Presidency, ensure that the new F-Gas Regulation will lead to a prohibition on placing HFC technologies and products on the market as soon as alternatives can meet the market demand.

The EEB furthermore calls upon the Greek and Italian Presidencies to reduce our energy consumption in absolute terms through:

- Using the planned revision of the Energy Efficiency Directive to make the 20% energy savings target for 2020 legally binding and promoting ambitious implementation;
- Ensuring that minimum energy efficiency requirements set out in the Best Available Techniques reference documents are fully implemented by industry;
- Ensuring that the energy savings potentials linked to Ecodesign energy-related products are fully grasped by allocating the appropriate resources in the Commission, by requiring a better monitoring of the market and by improving the decision-making process with respect to the revision of already existing regulations;
- Preparing the coordinated revision of the Energy Labelling Directive together with the Ecodesign Directive to increase consistency between the two pieces of legislation following a top runner approach and move towards energy sufficiency, rather than simply energy efficiency (absolute consumption reduction objective).

6. RESOURCES, PRODUCTS AND WASTE

Following the release and debate of the **Resource Efficiency Roadmap** in 2012, a political agreement on the **7 Environmental Action Programme** and a set of recommendations from the **European Resource Efficiency Platform** in 2013 a first series of policy initiatives will be prepared and possibly launched that will need to start translating political commitment into action. These will include a review of the **Waste Framework Directive** in 2014, an update of the so called '**recycling directives**' targets, such as the **packaging and packaging waste directive** and a revision of the landfill directive. These different review processes are expected to lead to a Communication including legal proposals by mid 2014. In parallel to this review work, focus should be kept on a proper implementation of waste policy to deliver its benefits for greening the economy as a failure to do so would risk losing

an opportunity for job creation and environmental benefits linked to waste management optimisation.

In addition, the integration of resource use as well as end of life dimensions into the design of products should be supported in all product policy instruments, notably in the Ecodesign Directive and the Energy Labelling Directive which are both up for review in 2014 as well as in green public procurement and Ecolabel policies.

As the Communication on building the single market for green products has been released by the EC in April 2013, with an emphasis on a common methodology to document the life cycle impact of products, 2014 will see the first deployment of this methodology on pilot projects. Monitoring this initiative at EU level to evaluate its ability to stop the proliferation of green claims and to support effective communication on the environmental impact of products will be of crucial importance.

EEB therefore calls on the Greek and Italian Presidencies to:

- Ensure that the Resource Efficiency Roadmap leads to the rapid adoption of a set of new policy tools and measures that bring about a reduction in the absolute amount of resources we consume, including but not limited to energy;
- Defend an ambitious review of the waste framework, the “recycling” and the landfill Directives towards waste prevention and to boost the recycling of material, notably biowaste, plastics and critical materials;
- Push for a better and more systematic integration of resource use requirements in the implementing measures for Ecodesign, notably reusability and recyclability requirements for product categories using critical material and plastics;
- Monitor the deployment of the environmental footprinting methodologies and adjust the Council strategy to make best use of these methodologies in terms of preventing the proliferation of unjustified green claims and communicating through effective information schemes to consumers.

7 ENVIRONMENTAL GOVERNANCE

Better implementation and enforcement of EU law

Striving for better implementation and enforcement of environmental law has always been an essential part of the EEB’s activities. The EU has an impressive body of environmental law and yet it is making only slow process in solving its environmental problems, partly due to poor implementation. The right tools, the political will to apply them and transparency in their application are at the heart of improving implementation of environmental law. The Commission took a step towards addressing these issues through its Communication on better implementation published in March 2012 (full title: ‘Improving the delivery of benefits from EU environment measures: building confidence through better knowledge and responsiveness’). However, the need for putting it into practice remains.

The EEB therefore calls on the Greek and Italian Presidencies to:

- In response to the 2012 Commission Communication on this subject, broaden the debate on improving implementation and enforcement of EU environmental law including on sharing of best practice, granting public access to correlation tables and implementation reports, systematic reporting and monitoring;
- Encourage and support Commission initiatives to deal with its enforcement obligations in a transparent and timely manner;
- Increase public involvement, through open and transparent infringement procedures with improved access to administrative documents and access to justice, as a minimum meeting the requirements of the Aarhus Convention;
- Ensure that all drafts of new or revised legislation are fully in line with the Aarhus Convention.

Environmental Inspections

Environmental inspections are an essential tool to ensure that European environmental law is applied more consistently. The non-binding 2001 Recommendation on Minimum Criteria for Environmental Inspections has clearly not achieved the desired results. One of the evident problems at the Member State level is the divergence in the quality of national inspection and enforcement regimes. Therefore, the EU needs binding legislation as requested by the European Parliament in its 2001 Resolution. Enforcement capacities also need to be strengthened at the EU level.

The EEB therefore calls on the Greek and Italian Presidencies to:

- If not published in 2013, call on the Commission to table a draft horizontal EU Directive establishing minimum standards for environmental inspections;
- Once such a proposal is published, swiftly start work in Council working groups;
- Draw on the 2001 European Parliament and Council Recommendation on Minimum Criteria for Environmental Inspections in the Member States;
- Ensure the inclusion of principles of minimum inspection duties and regimes, Member States' reporting requirements to the Commission and a high level of transparency granting the public timely and easy access to the reports;
- Introduce measures for better prevention and control of unsafe or even unauthorised activities with a potential to harm the environment and human health;
- Call for strengthened capacities within the Commission to address implementation problems in the Member States.

Environmental Impact Assessment

The EEB very much welcomed the adoption of the EIA Directive back in 1985 as it introduced rules, criteria and procedures to assess the environmental impact of projects before a development permit was granted and to allow the public to be informed and have the opportunity to give its opinion. However, the application of the Directive never fully delivered what it had been designed for, as there were too many loopholes, margins for (mis)interpretation and lack of clear assignment of tasks.

The EEB was therefore pleased to see that the Commission proposal for a revision of the Directive issued in October 2012 addresses many of these shortcomings, providing clear instructions for reporting obligations, requiring the assessment of valid alternatives and the justification of the project version that was chosen, requiring the use of recent information and foreseeing the extension of the scope of the EIA, thus addressing new challenges, for example by including a reference to climate change, ecosystem services and the risk of natural and manmade disasters. The EEB also welcomes the proposed introduction of mandatory post-EIA monitoring of significant adverse effects.

The vote in EP ENVI further strengthened the proposal by introducing some Aarhus requirements and, in line with the precautionary principle, making EIAs mandatory for shale gas projects irrespective of their size.

The EEB therefore urges the Greek and Italian Presidencies, in case the revised EIA Directive has not been adopted during the Lithuanian Presidency, to:

- Resume negotiations as quickly as possible in view of an adoption before the break due to the EP elections;
- Give its full support to all the improvements introduced by the Commission and the European Parliament.

Environmental Liability Directive

Back in 2004, the EEB very much welcomed the Environmental Liability Directive (ELD) as a new useful tool, based on the polluter-pays principle, for the prevention and remediation of environmental damage to nature, water and soil. However, as a Framework Directive, it leaves a wide margin of discretion to Member States on important issues such as the scope, defences, exemptions and financial security. The application of the ELD has remained very limited and the Directive has not delivered what the EEB had hoped for. According to the ELD, “the Commission shall submit a report to the European Parliament and to the Council before 30 April 2014” including proposals for its revision in 2015. The EEB is hoping to see considerable improvements leading to better and more EU-wide harmonized application of the ELD.

The EEB therefore urges the Greek and Italian Presidencies to:

- Call on the Commission to make good progress with the preparation of its report;
- Once the Commission draft has been tabled, start work in the Council working group with a view to achieving a progressive outcome.

Access to justice

There is an urgent need to re-launch negotiations on the proposed EU Directive on Access to Justice, originally tabled by the Commission in 2003. The necessity for such a Directive has been repeatedly stressed not only by civil society organisations in the EU Member States

but also by judges and other legal experts, as means to improve implementation and enforcement of EU law. It is further underlined by a number of studies showing considerable variations in the quality of access to justice between Member States, by the findings of the Aarhus Convention Compliance Committee which have revealed the failure of certain EU Member States to properly apply the access to justice pillar of the Convention, and by rulings of the European Court of Justice, e.g. in a case concerning Slovakia (C-240/09) in March 2011. These have added legal arguments to the political ones in favour of a horizontal approach to improving access to justice in environmental matters throughout the EU.

The Commission's Communication on better implementation published in March 2012 has referred to strengthening access to justice as one of a number of measures to improve implementation of EU environmental law. The Seventh Environmental Action Programme also refers to the need for access to justice in environmental matters in line with the Aarhus Convention and developments brought about by the entry into force of the Lisbon Treaty and recent case law of the European Court of Justice. It is, thus, timely to re-visit this issue.

The EEB therefore urges the Greek and Italian Presidencies:

- To revive the negotiations on the stalled Access to Justice Directive with a view to achieving the adoption as soon as possible of a Directive that establishes a minimum framework for access to justice which fully respects the Aarhus Convention and the related jurisprudence.

8. REVIEWING THE EU BUDGET TILL 2020

The **Multiannual Financial Framework or EU budget**, although small in relation to the annual GDP of the EU, is an important financial source for European investments. As the EU faces economic turmoil and a global ecological crisis, a better and more focused use of scarce financial resources is paramount. In the last financial framework, the EU broadly failed to match real expenditures to its sustainable development ambitions.

The negotiations for the EU-Budget 2014-2020 were finalised in 2013 under the Irish Presidency and resulted once more in failure to re-align EU's expenditure to its sustainable development ambitions, in particular on the Common Agricultural Policy. The final agreement contains however a flexibility clause, although significantly more limited than demanded by the European Parliament, providing for the possibility of redirecting unspent funds to 'growth and jobs', in particular youth unemployment, instead of returning these to the Member States as is currently the case. It is essential that this 'growth and jobs' priority will be interpreted in a broad sense in line with EU's objectives for smart, inclusive and sustainable growth, thereby creating at least a small opportunity to increase the financing for the more progressive elements of the EU budget, in particular the LIFE fund, which have been particularly hard hit by the cuts agreed in 2013. The first real opportunity however to change EU spending on a more substantial scale is now the revision of the MFF foreseen for 2016 and it is essential that a new European Commission and European Parliament make this one of their top-priorities.

The EEB therefore calls on the Greek and Italian Presidencies to:

- Use the newly introduced flexibility in the EU budget to increase the share of the LIFE Fund in the EU budget from the current 0.23% to reach at least 1%, in order to cover 15-20% of the costs of managing the Natura 2000 network in the EU28.

9. HALTING DECLINE OF BIODIVERSITY AND RESTORING ECOSYSTEMS

In March 2010, the EU set at the highest political level a **headline target of halting biodiversity loss and ecosystem services degradation by 2020**. It also called for their restoration where this is still physically possible and to step up EU's global efforts in the field of biodiversity conservation. The new **EU 2020 Biodiversity Strategy** was adopted by the Commission as a framework for actions to enable the EU and its Member States to reach its 2020 headline target. The Strategy, setting out six mutually supportive and inter-dependent targets, was also endorsed in 2011 by Member States at the Environment Council and in spring 2012 the European Parliament adopted an own-initiative report on it.

The EU 2020 Biodiversity Strategy is scheduled for a mid-term review, which is going to be conducted during 2014 and completed in 2015. Member States will among other things need to prepare reports under the Habitats and Birds Directives by the end of 2014, which will indicate how close the EU is to reaching the set targets. The first outcomes of the work on mapping and assessment of ecosystems and their services (MAES) should by then also become available. Committed action will still be needed by the Presidencies and the Commission to put the EU on track to reach its headline target and the six targets of the Strategy, allowing the EU and its Member States to also live up to their international commitments, including the CBD Aichi targets, as well as to eventually achieve the 2050 EU vision on protection of biodiversity.

83% of European habitats and species protected under the **Birds and Habitats Directive** are currently not in a favourable status (or their status is unknown). To reach the goal of at least 40% of habitats and species being in favourable status in 2020 and thereby start delivering on the 2020 objective of restoring ecosystems, the necessary management frameworks need to be put in place across the EU as soon as possible. This is also a legal requirement under the Habitats Directive and as the EEB report on Natura 2000 management from 2011 demonstrated, this is indeed feasible¹. The new biogeographic management seminars could help in this respect and Member States in particular will need to show a higher degree of commitment to the results of the seminars and most importantly use them proactively as a tool to enhance management.

The necessary budgetary allocations are proving essential for reaching the 2020 biodiversity target. In the light of mounting environmental challenges and public budget constraints, it

¹ EEB, 2011, 'Where there is a will, there is a way: a snapshot assessment of Natura 2000 management', available at: <http://www.eeb.org/EEB/?LinkServID=5CC039F5-5056-B741-DBFACCB777CA4E16&showMeta=0>

will be even more important to show the benefits healthy ecosystems can deliver and inform different EU policies (e.g. regional development, agriculture, fisheries, transport, climate change) on the importance of biodiversity conservation and the opportunities this brings for achieving green development benefiting society at large. The EU Budget negotiations having been effectively concluded in June 2013, it is now clear that the main EU funding lines (CAP, CFP, Regional, Social and Cohesion Funds and LIFE within the next Multiannual Financial Framework 2014-2020) have not been sufficiently reformed to help the EU move closer to a green economy, which values ecosystem services the way they should be valued and conserves its ecosystem basis including habitats and species. Despite this, Member States still have an opportunity to steer scarce resources in the direction of conserving biodiversity, including by promoting green infrastructure. The Prioritised Action Frameworks (PAFs), which will by then be drawn up by all Member States, could, if properly used, improve mainstreaming of Natura 2000 management needs into other policies and ensure EU financing in the area of nature protection in the next few years. The promotion of the EU's green infrastructure outside protected areas will, by providing nature-based solutions to economic, environmental and societal challenges, prove essential in mobilising investments to sustain and enhance ecosystems and their services. It will provide additional support to the implementation of the current legal framework for nature conservation, most notably the Habitats and Birds Directives. Significant additional opportunities for financing nature protection provided by increased synergies between action to fight the impacts of climate change and biodiversity conservation will need to be further explored and ecosystem-based mitigation and adaptation promoted.

The 2020 headline target will most likely not be reached if one of the main direct drivers of biodiversity loss at EU and global level, invasive alien species (IAS), is left untackled. Invasive alien species not only lead to a significant degradation of ecosystems and their services, they also impact negatively upon human health, infrastructure, food crops, aquaculture, timber stocks and waterways. In economic terms, the costs of IAS are significant. In the EU alone, IAS are estimated to cause around €12.5 billion worth of damage each year². Increased efforts by the Commission and Member States will be needed to reach the IAS target as defined by the 2020 Biodiversity Strategy. In particular, significant progress should be made during 2014 in the negotiations on a dedicated legally binding instrument on Invasive Alien Species, which should be proposed by the Commission in the second half of 2013.

The EU needs to show its leadership also at the international level by actively engaging in discussions on resource mobilisation and enhanced efforts to reach the Aichi targets at the CBD COP 12, which will take place in October 2014 in Pyeongchang, Republic of Korea. By 2014, agreement on the EU Access and Benefit Sharing regulation should be reached, enabling the EU and its Member States to ratify and implement the Nagoya Protocol on Access and Benefit Sharing of Genetic Resources and ensure that it enters into force. Participation at the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing in October 2014 will be required to show the readiness of the EU and its Member States to fulfil their international commitments.

² IEEP (2010) Assessment to support continued development of the EU Strategy to combat invasive alien species.

The EEB therefore calls on the Greek and Italian Presidencies to:

- Promote the importance of biodiversity conservation for green development benefiting society at large and ensure sufficient budgetary allocations for biodiversity conservation and Natura 2000 management (according to the prioritised action frameworks) in all Member States;
- Achieve progress in promoting green infrastructure as a way to redirect investments from expensive ‘grey infrastructure’ such as dams, levies and canals to ‘green infrastructure’ such as floodplains and interconnected natural areas;
- Further the implementation of the EU Biodiversity Strategy;
- Ensure that N2000 management is implemented across the EU and that more active engagement and commitment of Member States to the results of the new bio-geographic process is achieved;
- Achieve significant progress in negotiations on a new legally binding instrument on invasive alien species;
- Prepare an ambitious position of the EU for the CBD COP 12 taking place in October 2014 in Pyeongchang, Republic of Korea;
- Ensure that the EU and its Member States ratify the Nagoya Protocol on Access and Benefit-sharing so as to enable its entry into force by the scheduled first meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing in October 2014.

10. CHEMICALS AND NANO-MATERIALS

At the Johannesburg World Summit on Sustainable Development on 4 September 2002, the EU committed to produce and use chemicals in ways that would minimise adverse effects on human health and the environment by 2020. The Commission’s White Paper “On the Strategy for a future Chemicals Policy” of 13 February 2001 had already mentioned that when considering only the known chemicals, about 1,400 substances would qualify as substances of very high concern (SVHCs). The REACH Regulation of 18 December 2006 set as its core objective to replace SVHCs with safer alternatives (through the authorisation regime) or by restricting their manufacturing, placing on the market and use in order to ensure a high level of protection of human health and the environment. In particular, restrictions should continue to be introduced for substances which are carcinogenic, mutagenic or toxic to reproduction cat 1 or 2 (corresponding to cat 1A and 1B according to the new CLP Regulation) and could be used by consumers. Six years after entry into force of REACH, the number of substances identified for substitution is only 144 with an average annual increase of 20 substances. The Commission had made a commitment to have “all relevant currently known SVHC” included in the candidate list by 2020.

However only 22 substances have made it to the official “authorisation list” (Annex XIV) so far, inclusion on which means that substitution requirements apply. Proceeding under business as usual scenarios and stopping short at adding to the candidate list (which is the first but not last step for substitution) means that the EU is going to fail its commitment spectacularly. Furthermore, there are well-founded concerns about a specific type of SVHC with disrupting effects on hormones or endocrine disrupting chemicals (EDCs). EDCs are

suspected of playing a role in disrupting human brain development, the deterioration of reproductive health, the increased incidence of male and female hormone-related cancers and the increase in cardiovascular disease, obesity and diabetes, among other adverse effects.

2014 will be a critical year for the authorisation process, as the Commission will adopt the first decisions on the applications for authorisation of use in the EU of substances of very high concern. Furthermore, REACH will be reviewed regarding information requirements for low production volume and CMR (carcinogenic, mutagenic and toxic for reproduction) substances.

Nanotechnology is the science and business of manipulating matter at the molecular scale. Materials produced with the aid of nanotechnologies are used in many areas of everyday life (cosmetics, clothing fabrics, sports equipment, paints, food packaging and additives, etc). 2,500 consumer products are estimated to contain engineered nanomaterials (NM). Due to their small size, in particular, nanoparticles present new concerns for human health and the environment, such as penetrating the brain and tissues, producing asbestos-like effects or modifying DNA capacity. Recent research has led to a consensus amongst nanotoxicologists and ecotoxicologists that the risks of severe impacts on health and the environment are real, although there is a continuing lack of knowledge as to the levels of these risks and how to manage them.

In March 2009, the European Parliament adopted a resolution on regulatory aspects of NM and called upon the European Commission to review all relevant regulations by April 2011 to ensure the safety of all applications of NM with potential health, environmental or safety impacts over their life cycle. Despite strong pressure from civil society, the European Parliament and some Member States, the Commission's second regulatory review on NM, published in October 2012, represented a step backwards for regulating this type of materials. Indeed, the Commission now denies the specificities of NM, stating that "nanomaterials are the same as common chemical substances", in direct contradiction to the Commission's own staff document and dismissing general hazard patterns of NM that differ from other chemical substances; for NM, the surface area, size, shape, solubility and persistence are predominant factors, much more than chemical composition *per se*. The Commission's review also ignores the fact that REACH does not apply to NM due to the high production volumes thresholds which are inappropriate for NM and the lack of definition of NM in the legal text among other things, and states that only amendments of the REACH annexes and guidance are to be done by December 2013 and discussed at the Council by 2014. Finally, the Commission has started in 2013 the Impact Assessment procedure to assess the need of an EU-wide nano register that will be published by the end of 2014.

EEB therefore calls on the Greek and Italian Presidencies to speed up REACH implementation and support an ambitious review, in particular by:

- Calling upon the European Commission to increase human and financial resources for the phasing out and substitution of SVHCs and ensuring that no SVHCs will be given an authorisation of use whenever safer alternatives are available in the market;

- Tasking the Commission to evaluate the role of Member States and the Commission/ECHA in order to achieve the effective substitution/phase out of SVHCs;
- Urging all Member States and the Commission to commit to a minimum number of SVHC proposals for the candidate list, in order to achieve the 2020 goal of including all known SVHCs in the candidate list of authorisation;
- Asking the Commission to propose concrete measures and timetables for achieving the objectives of REACH with regard to SVHCs as well as to avoid the slowdown of the process due to the development of Risk Management Options;
- In particular insisting on:
 - Strict demands on general and early substitution of hazardous substances; substitutes should be identified for substances in high quantities or with hazardous properties already in the registration phase;
 - Fewer bottlenecks, lower barriers and decisive time limits for the process of pointing out substances for the authorisation procedure;
 - No authorisation when substitutes exist; statutory deadline on maximum time-limit for review of authorisation;
 - Automatic and early phase-out for CMRs (substances that are carcinogenic, mutagenic or toxic to reproduction), PBTs (persistent bioaccumulative toxic chemicals), vPvBs (very persistent and very bioaccumulative) and chemicals with other hazardous intrinsic properties or equivalent level of concern;
 - For EDCs, a precautionary identification strategy is needed as well as recognition that these substances cannot be adequately controlled;
 - A complete overhaul of the current risk assessment approaches in order to adequately address cocktail effects of chemicals;
 - A substantially lowered burden of proof for public agencies when it comes to decisions on restrictions;
 - Increased transparency and independent evaluation regarding data provided by industry and agencies;
- Calling on the Commission to ensure that appropriate Chemical Safety Assessments and reports are required for low production volume chemicals and all CMR substances, when drafting the 2014 REACH review according to article 138 (1);
- Ensuring adequate enforcement of the citizens' right to know on SVHCs in products.

In relation to nano, by:

- Amending all relevant EU product legislation to ensure safety to human health and the environment of all applications of NM and to ensure the strict application of the "no data, no market" principle, meaning that any NM-containing products that have not undergone specific nano-safety assessments may not be placed on the market, in particular not in ordinary consumer products;
- Calling on the European Commission to develop proposals to ensure that all nano-containing products placed on the market (after having undergone assessment procedures) are registered for identification and traceability purposes and included in an EU-wide inventory that is available to the enforcement authorities, academia and the public;

- Amending the REACH regulation with provisions addressing NM specifically, in particular to:
 - Ensure that NM are treated differently than their ‘bulk’ counterparts and fall under the regime of ‘non phase-in’ substances;
 - Adapt the existing 1 tonne threshold so as to ensure that NM which are often produced or imported by volumes under 1 ton are effectively registered under REACH.
 - Adopt additional requirements for the generation of information on intrinsic properties of NM and for the evaluation of their safety;
 - A complete overhaul of current risk assessment approaches and test methods in order to adequately address NMs;
- Amend additional legislation including REACH, laws on workers' protection, air quality, water quality, ecolabel, CLP and waste;
- Prioritise EU research projects aiming at closing fundamental knowledge gaps over increasing funding in technological developments;
- Encourage and provide for the introduction of effective public engagement into governance of current and future nanotechnologies;
- Further integrate social, ethical and environmental aspects related to the assessment of nanotechnology in EU governance.