



One year to go
The 2003 *Green 8* review of the European Commission's environmental policies



A joint document from the *Green 8*:

- BirdLife International
- Climate Action Network (CAN)
- European Environmental Bureau (EEB)
- Friends of the Earth Europe
- Friends of Nature International
- Greenpeace European Unit
- European Federation for Transport and Environment (T&E)
- WWF European Policy Office

2003 Green 8 Review of the Prodi Commission

The objectives of this review are:

- Firstly, to present our evaluation of the environmental policies of the Commission since July 2002. We assess the performance of the College, as well as the impact of individual Commissioners on environmental policy.
- Secondly, to point out what the Prodi Commission still needs to do in the coming year in order to improve its overall environmental record.

The present evaluation updates the Green 8 'mid-term review' of July 2002.¹ In that review, the Green 8 evaluated the Prodi Commission's environmental performance during the first half of its term of office (September 1999 - July 2002).

To judge the Commission's performance, we have selected for scrutiny in particular those policy areas that are highlighted as priorities in the EU's 6th Environment Action Programme and/or in the Commission's work programmes of 2002 and 2003. We pay particular attention to those issues where this Commission could still achieve significant progress.

This document consists of three parts:

- I Schematic Overview of the Commission's Performance in the past year (p.2),
- II Evaluation of environmental policies of the Prodi Commission in 2002-2003 (pp. 3-15),
- III One year to go – the summary 'to do' list for the final year of office (p.16).

¹ <http://eu.greenpeace.org/downloads/>

I Schematic overview of the Commission's performance in 2002-3



	Commission as a whole	Individual Commissioners
1. Climate		Prodi, Wallström
2. Agriculture		Fischler
3. GMOs		Lamy, Nielson Fischler, Byrne, Busquin
4. Maritime Safety		Prodi
5. Environmental Liability		Wallström
6. Chemicals		Byrne, Wallström Diamantopoulou, Vitorino Prodi, Liikanen, Bolkestein, de Palacio, Verheugen
7. Energy (Energy Efficiency, Renewables, Hydrogen, and Nuclear)		Prodi Wallström, de Palacio, Busquin
8. Protection of Nature		Wallström
9. Public Participation		
10. Sustainable Development		Wallström Nielson
11. Trade		Lamy Wallström
12. Waste and Product Policy		Liikanen, Wallström
13. Transport		Wallström de Palacio

II Evaluation of the Commission's environmental performance (2002-3)

1. CLIMATE

PAST ACTION:

In the past year, President Prodi and Commissioner Wallström have continued to encourage other industrialised countries to ratify the Kyoto Protocol. The *Green 8* have recognised the global leadership role that the EU has taken on this issue. Unfortunately, the sustained efforts by the Commission as well as the Council to convince Russia to ratify have not been successful, so far.

The Commission's role in facilitating a final agreement on the Directive for an EU Emission Trading System, in June 2003, was positive.

TO DO:

- a) During the upcoming meeting of the parties to the UN Convention on Climate Change (Italy, December 2003), the Commission should push for equitable long-term targets on emissions reductions. A threshold target of no more than 2 degrees temperature rise over pre-industrial temperatures should be agreed, in line with the 1997 Council conclusions. Pressure on the Russian administration to ratify the Kyoto Protocol should be increased.
- b) Under the EU Emission Trading Directive, the Commission should use its power of review to ensure that the Member States' national allocation plans lead to real and ambitious domestic emission cuts that meet the Kyoto Protocol targets.
- c) While the Kyoto protocol includes the option for countries to obtain credits by emission reductions abroad through so-called 'flexible mechanisms' (Joint Implementation and Clean Development mechanisms), priority should be given to emission cuts at home. The Commission should put a limit to the quantity and type of credits obtained from actions abroad. The Commission should exclude any possibility of countries obtaining credits through carbon sinks, nuclear power and unsustainable large hydroelectric projects.
- d) The Fluorinated Gases Regulation, which the Commission is currently preparing, should include phase-out deadlines for all uses of these extremely potent greenhouse gases where environmentally friendly alternatives exist. The Commission should not succumb to the pressure by industry to water down its legislation on these gases.

2. AGRICULTURE

PAST ACTION:

In July 2002, Commissioner Fischler put forward a bold proposal to reform the Common Agricultural Policy (CAP). It integrated environmental concerns by proposing measures such as 'cross compliance' and 'decoupling' of farm subsidies from production. The requirement of cross compliance links CAP subsidies to environmental, health and animal welfare standards, meaning subsidies are cut if standards are flouted. The decoupling mechanism removes the pressure for high production levels thus reducing the negative impact of intensive agriculture on the

environment, as well as on developing countries. Commissioner Fischler's proposal also promised a shift of 30% from direct aid to rural development. Although a Franco-German deal at the EU summit in October 2002 fixed a ceiling on CAP expenditure until 2013, there was still hope that the radical CAP reform would remain on track. However, negative feedback from the majority of Member States limited Commissioner Fischler's ambitions. Three months later, in January 2003, the Commission adopted a much weaker proposal.

In June 2003, with France threatening to veto the reform, Member States agreed on a weakened text. Regrettably, much flexibility is now left to Member States' implementation. Nevertheless, some positive steps have been taken: the principle of cross compliance will now become mandatory, the principle of decoupling is now in place for the majority of direct aid, and a shift of funds from direct aid to agricultural production to rural development is compulsory, albeit small.

It is debatable whether the Commission had the possibility to get a better final agreement given several Member States' strong opposition to the original proposal. In any case, it has to be recognised that Commissioner Fischler negotiated tirelessly to defend the reform. For the first time, even France now accepts the principle of decoupling. This is a step in the right direction, although the system of guaranteed minimum prices, which artificially encourages overproduction and results in unfair export subsidies, unfortunately remains in place.

TO DO:

- a) In early 2004, the Commission is expected to put forward further proposals on the common market of sugar, cotton and olive oil. We expect Commissioner Fischler to fully integrate environmental aspects into these proposals.
- b) The Commission should also put forward legislation to reduce pesticide use and improve soil protection by focusing on the long-term sustainability of the agricultural sector.

3. GMOs

PAST ACTION:

Under the Prodi Commission, three crucial laws have been approved: the new Directive on deliberate releases of GMOs into the environment (which includes a stricter risk assessment and approval procedure), and –very recently- two Regulations on GM Food and Feed and Traceability and Labelling of GMOs. This happened due to strong public concern and political pressure by Member States, who decided to uphold the de facto moratorium on new approvals of GMOs as long as the above mentioned legislation has not entered into force. In the meantime, the Commission has repeatedly and unsuccessfully tried to convince Member States to lift the moratorium (last time in October 2002).

With specific regard to GMO contamination in the fields (the so-called issue of 'co-existence' between GM, organic, and conventional crops), the Commission's performance, under the responsibility of Commissioner Fischler, has been extremely poor. In a draft communication on co-existence, Commissioner Fischler has dodged his responsibility by shifting to Member States the burden of defining anti-contamination measures. At the same time, the Commission has indicated its intention to prevent Member States from adopting anti-contamination measures by considering such measures as obstacles to the free circulation of GMOs.

A further regrettable move of the Commission, on the initiative of Commissioner Byrne, was its start of legal proceedings against the Austrian government's successful implementation of a strict standard for GM contamination of seeds (0.1% tolerance).

Since August 2002, the Commission has resisted attacks from the US administration, which claims that the European rejection of GMOs is undermining what the US present as a remedy to relieving hunger in developing countries – GM food aid and cultivation of GM crops. Commissioners Lamy and Nielson, in particular, have highlighted the flaws of the US position. They defended African sovereignty in deciding whether or not to accept GMOs, and accused the US of dumping its highly subsidised surplus of GM commodities as food aid. The EU's developing aid is mostly financial. Contrary to this line, Commissioner Busquin has consistently promoted GMOs also as a remedy for developing countries.

In May 2003 the US Administration announced that it would table a complaint at the WTO in order to fight the EU's precautionary approach to GMOs. The Commission, in particular Commissioner Lamy, has rightfully stood up against the claims of the US government which are a pretext to force Europeans' acceptance of GMOs, and intimidate other countries not to follow the EU example of comprehensive legislation on this matter.

TO DO:

- a) The Commission should fill the gaps in the existing legislation on GMOs by presenting three new legislative proposals: Firstly, the Commission should put forward a proposal for an EU legislative framework to protect consumers and farmers from genetic contamination (the so-called 'co-existence' issue). Harmonised rules are needed to establish which measures must be taken to prevent contamination, who is responsible for their implementation, and what type of sanctions will apply to offenders. A further legislative proposal should address liability for economic damage – in case contamination of conventional and organic crops and products (for example honey) does occur. Finally, the Commission should review its proposal for a 'Seed Directive', setting up a general standard of adventitious contamination of conventional seeds no higher than detection level (0,1%) for all crops, rather than allowing thresholds as high as 0,7%, as currently foreseen.
- b) The Commission should avoid proposing new approvals for releases of GMOs into the environment (cultivation), and review the authorisations that have already been granted prior to 1998. In the meantime, the Commission should not try to block Member States' national measures to prevent GMO contamination in the fields; such measures are now allowed after the definitive approval of EU Regulation on GM Food and Feed by the European Parliament.
- c) The Commission should continue to defend EU legislation on GMOs against the US administration's attack in the WTO. This attack is expected to expand also against EU new rules on traceability and labelling, and international obligations under the UN Cartagena Protocol on Biosafety.

4. MARITIME SAFETY

PAST ACTION:

The Commission's action on maritime safety during its whole term of office has been a reaction to major maritime accidents, such as the 'Erika' and 'Prestige' disasters. In particular, since the sinking of the oil tanker 'Prestige' off the coast of Spain (November 2002), President Prodi ensured that the Commission put forward, in December 2002, new legislative proposals anticipating the deadlines for the definitive removal of single-hull oil tankers. In March 2003, it proposed criminal sanctions for sea pollution. The Commission also took a leading role in pushing Member States at the International Maritime Organisation (IMO) to establish a supplementary fund for the compensation of victims of oil pollution damage. The Commission initiative is welcome, notwithstanding the need to go further in order to ensure a much more effective liability regime for oil spills at sea. We are concerned that the Commission will forget its intention of reforming the IMO Civil Liability Convention (CLC) once the outrage about the Erika and Prestige fades away. This is already apparent in the exaggerated attention given to the single-hull legislation, which is presented as a panacea for maritime safety, whereas in fact it only resolves a little part of the problem.

TO DO:

It is now time for the Commission to move towards a more preventive approach to environmental issues in shipping. This must include legislation which ensures that transport's costs – including those of shipping – are internalised through differentiated charging and that polluters therefore pay for the full range of damage which they cause. It is also essential that the Commission insists that Member States should reform the international liability and compensation system under the IMO, which currently channels all liability towards the ship owner, thus providing no incentive for cargo owners to change negligent practices. The very narrow definition of 'fault' under the CLC Convention also needs to be amended, as this is key in determining whether liability of the ship owner is limited or unlimited in case of accident. In the present text, fault is taken as synonymous with criminal intent. Should these changes not be possible, the Commission should encourage Member States to pull out of the IMO system (as the US did after the Exxon Valdez accident). It should then make a proposal for an EU liability regime covering both traditional damage and environmental damage occasioned by the transport of dangerous substances by sea.

5. ENVIRONMENTAL LIABILITY

PAST ACTION:

In January 2002, the Commission, under the initiative of Commissioner Wallström, put forward a very weak draft Directive on liability for the prevention and remedying of environmental damage (including damage to biodiversity). The Commission proposal excluded highly polluting activities (oil transport by sea and nuclear industry). It also provided for broad exemptions for activities permitted under current legislation or not known to be harmful according to the present state of scientific knowledge ('permit' and 'state of the art' exemptions). This made a mockery of the polluter-pays principle. In particular, as a consequence of the exemptions, authorised GMOs would not be covered by the liability regime. The text was considerably improved by Parliament in its first reading in May 2003. However, in spite of the efforts made by the Greek

Presidency to come to a progressive compromise in Council, and contrary to Commissioner Wallström's promises to the *Green 8*, the Commission showed little willingness to amend its original proposal and thereby contributed to a weak Council position in June 2003. In particular, the Council did not accept the Parliament's amendment requiring mandatory financial security, and it substantially weakened the Parliament's compromise on 'permit' and 'state of the art' exemptions, which had been turned into mitigating factors in court.

TO DO:

In the further development of the legislative process, the Commission should make a serious effort to broker a compromise between the Council and the European Parliament that would implement the polluter pays principle, with no automatic exemptions and with a mandatory system of financial security (insurance, dedicated funds or other financial instruments). It is crucial that the legislative process be completed before the Parliament's June 2004 elections, to avoid reopening the debate.

6. CHEMICALS

PAST ACTION:

In May 2003, the Commission decided to further delay the adoption of the REACH system for a new EU chemicals policy. The Commission's original proposal had been set out in a White Paper in 2001, and was supported by the European Parliament and Council. Heads of State and Government asked for the new chemicals legislation to be in place by 2004. Within the Commission, Commissioners Liikanen and Wallström hold joint responsibility for the proposal. The negotiations between these two Commissioners have been slow and controversial, and led to a significant weakening of the original proposal. In a key debate within the College, Commissioners Byrne, Wallström, Vitorino and Diamantopoulou supported the reform. Commissioners Bolkestein, Verheugen and de Palacio, on the other hand, have argued for further delay and weaker provisions. So far, President Prodi has failed to ensure a proper balance between the interests at stake. The discussion within the Commission has been dominated by Commissioner Liikanen's DG Enterprise, which highlighted concerns for industry competitiveness. Little attention was given to the potential benefits for public health and the environment. As a result, the draft regulation published in May 2003 for consultation on the Internet fails to address some major shortcomings of the existing EU chemicals regime. Above all, it does not provide for the phase out and replacement (substitution principle) of chemicals that accumulate in wildlife, humans or the environment, and for endocrine disrupting chemicals that adversely affect the hormonal system. It also fails to give consumers the right to know about hazardous chemicals used in products.

TO DO:

The President should give this reform priority and ensure that a formal proposal is made in autumn 2003. The Enterprise and Environment Commissioners should reject industry's attempts to further dilute the text or to delay the adoption of the proposal. The current draft provisions for authorisation of hazardous chemicals should be amended to implement the substitution principle.

7. ENERGY

7.1 ENERGY EFFICIENCY

PAST ACTION:

Two Directives are overdue since the end of 2002: firstly, the Directive on Energy Efficiency Services and Programmes; secondly, the Directive on Eco-Design of Energy Using Equipment (EuE), which resulted from the merger of the proposed Directive on Electrical and Electronic Equipment and the Directive on the Minimum Efficiency Requirements for End-Use Equipment. This merger has considerably delayed the phase out of the least energy efficient products. Progress on the long-awaited revision of the existing Directive on Energy Labelling, which would extend the successful A-G energy efficiency label to a wide variety of appliances, has been slow.

TO DO:

- a) Energy conservation and efficiency should be a priority of EU energy policy. The Commission should propose a long-term overall target to reduce energy demand. In particular, the future Directive on Energy Efficiency Services and Programmes should include such a target. The Directive on Eco-Design should create an effective framework for ambitious and dynamic minimum energy efficiency standards for products. Both directives should include provisions for public procurement of energy efficient products. The existing A-G energy efficiency label should be extended to cover all major energy consuming products.
- b) The existing Housing Directive should be revised in order to promote better insulation standards of walls, roofs and windows. Presently, energy losses from badly insulated houses are increasing. The growing use of inefficient air conditioning equipment results in rapidly increasing electricity consumption. EU standards for maximum energy consumption per m², set as annual national average, should be introduced for all buildings.

7.2 RENEWABLE ENERGY

PAST ACTION:

The UN World Summit in Johannesburg failed to agree on a global renewable energy target. Thanks to Commissioner Wallström, the Commission therefore took the initiative to form a 'Johannesburg Renewables Coalition'. This Coalition was formally launched in Brussels in June 2003. It has not agreed any concrete activities so far.

TO DO:

By the time of the Bonn Renewables Conference in June 2004, the Commission and EU Member States should lead the Coalition in the adoption of a calendar for ambitious renewable energy targets. The Coalition should also commit to the removal of market barriers to renewable energy sources (such as subsidies for nuclear and fossil fuels), and start a policy to encourage investments into renewable energy sources and energy efficiency projects. A definition of renewable energy sources is also required to explicitly exclude environmentally harmful energy sources such as large hydroelectric dams, unsustainable polluting biomass and waste incineration.

7.3 HYDROGEN

PAST ACTION:

The Commission High Level Group on Hydrogen and on Fuel Cells has produced a worrying report about the future of hydrogen in the EU. The *Green 8* welcome the announcement made by President Prodi in June that by 2050 all hydrogen in the EU should be produced by renewable energy sources. We reject, however, the idea presented by Commissioners Busquin and De Palacio, which focuses on the production of hydrogen from fossil fuels, with the use of carbon sequestration - which is not only costly but also a potential environment threat - and nuclear power.

TO DO:

Any hydrogen policy should be based on the development of a sustainable (environmentally and economically) energy system, renewable energy sources, and energy efficiency and conservation. The commitment made by President Prodi to achieve 100% green hydrogen by 2050 should be integrated in all Commission activities in the hydrogen and fuel cell sector.

7.4 NUCLEAR

PAST ACTION:

In November 2002, the Commission put forward a proposal to increase the limit of loans available to the nuclear industry under the Euratom Treaty. In January 2003, Commissioner de Palacio presented a further set of three directives that set out general principles on safety, measures on decommissioning funds, and requirements for radioactive waste dumping. This 'Nuclear Package' is presented as a framework that will increase nuclear safety and will address some of the problems associated with radioactive waste management. However, it appears to be designed mainly to ensure the survival of the nuclear industry, rather than to protect the public or the environment.

The Directive on safety principles will result in no increase in nuclear safety, in particular as there is no requirement for surprise inspections at nuclear sites, and it sets no firm standards.

The proposal to legally separate decommissioning and radioactive waste management funds from the energy companies' operating budgets is welcome. However, the proposal contains a derogation that would allow utilities to continue managing decommissioning funds under unspecified 'exceptional circumstances'. This allows for a significant market distortion in favour of nuclear companies.

The draft Directive on Waste Management presents deep geological disposal for high-level radioactive waste as the only option for dealing with radioactive wastes. However, there is no scientific agreement on this; many would argue that continued above ground storage of nuclear wastes is the least environmentally damaging option. The Commission proposal would also allow the export of radioactive waste to other Member States, or to countries outside the EU. The danger is that many Member States, who as yet have failed to find dump sites for the waste produced by their nuclear industries, will resort to exporting their nuclear waste problems to other countries in an effort to meet the demands of the Directive's timetable.

Under the Euratom Treaty, over 3 billion Euro in loans have been provided for the expansion of the nuclear industry. The draft Directive would allow new Member States to access loans for reactors that are under construction.

TO DO:

- a) Immediate action should be taken on the separation of decommissioning and waste management funds from nuclear utilities, in order to remove distortions in the electricity market and to ensure that adequate funds are available for their intended purpose.
- b) Expanding the EU's competence for nuclear safety standards can only be justified if, from the outset, it will result in an increase in safety standards at all existing nuclear facilities. We believe that the current draft directive will not achieve this, and should be redrafted, or rejected.
- c) The draft directive on radioactive waste management should be changed to ensure that the management of radioactive wastes is driven by the least environmentally damaging option, rather than by the erroneous assumption that nuclear waste dumping is the only option available. It should unequivocally remove the option of exporting nuclear wastes to other countries. It should also ban the reprocessing of nuclear fuel, which results in significant radioactive discharges into the environment, and increases the volume of radioactive waste.
- d) Euratom loans should not be used to fund construction and expansion of nuclear plants. This is contrary to the development of a sustainable energy system, and of an electricity market free of distortion. The Commission should instead promote energy efficiency.

8. PROTECTION OF NATURE

PAST ACTION:

Over the last three years, Commissioner Wallström's service made only slow progress, due to lack of Member States' co-operation, towards adopting the six regional lists of 'Sites of Community Importance', overdue since 1998. DG Environment also launched a debate on options for increasing co-financing of the management of the Natura 2000 network of protected sites.

During 2002, all accession countries finished negotiations on matters relating to nature protection. A regrettable concession was made in the case of Malta, which was granted a transition period to apply the Birds Directive. This is a worrisome precedent, as it is the first time that a transition period has been given for any of the two Nature Protection Directives.

TO DO:

- a) The Commission should stand firm on its commitment made in the 6th Environment Action Programme to ensure the full implementation, application and enforcement of all existing legislation. It should not be reluctant to start legal proceedings against Member States that blatantly breach EU nature conservation legislation.
- b) The Commission should ensure that all the lists of 'Sites of Community Importance' for the EU-15 are finalised by June 2004.
- c) The Commission should also present a comprehensive proposal to ensure adequate co-financing for Natura 2000 protected sites in the EU-15 as well as the new Member States.
- d) Special attention should be given to the preparatory work in new Member States to ensure that they meet the agreed deadlines for the transposition of the two Directives on Nature Protection.

9. PUBLIC PARTICIPATION

PAST ACTION:

In 1998, the European Community and all Member States signed the Aarhus Convention on access to information, public participation and access to justice in environmental matters. Although this Convention entered into force in 2001, so far only 5 Member States have ratified it: Belgium, Denmark, France, Italy and Portugal. The European Community can only ratify when all legislation, in Member States, as well as in EU institutions, is consistent with the Aarhus provisions.

Now, 5 years after signing the Aarhus Convention, the EU has only come halfway. Two Directives have been adopted, ensuring compliance, at national level, on access to information and public participation. A Directive on Access to Justice has been in the pipeline for a long time, as well as a Regulation that sets the rules for public participation in the EU Institutions.

While the Commission has been relatively quick in adopting proposals that increase public participation in Member States, it has been very hesitant to propose similar legislation for the EU institutions themselves. According to our information, the Regulation on EU Institutions is meeting fierce resistance within the Commission. Initially foreseen for publication in 2002, it is still unclear when a proposal will be adopted. Some parties in the Commission pretend that the Commission's own "guiding principles and minimum criteria for consultation of interested parties" are sufficient to comply with the Aarhus Convention. We disagree, since these 'guiding principles'

- a) do not establish a legal right, but leave public participation to the discretion of Commission officials, and because they
- b) do not apply to all EU Institutions, but only to the Commission.

TO DO:

Deliver further legislative proposals to fully comply with the provisions of the Aarhus Convention. These should include public participation as a legal right at the EU level, and grant access to justice for citizens and public interest groups both at national and European levels.

10. SUSTAINABLE DEVELOPMENT

10.1 GENERAL

PAST ACTION:

The Commission's Sustainable Development Strategy of 2001 has only received a very modest follow-up. In its 2003 Spring Report, the Commission's input to the annual European Spring Summit, the Commission provided some information on the environmental performance of the economies in the EU. However, it did not propose any initiatives. The Commission does not provide the European Council with information on several of the most important areas: decline of biodiversity, human exposure to chemicals, resource efficiency.

This year, the Commission finally agreed on the methodology for an Integrated Impact Assessment for major new policy proposals. Regrettably, the emphasis on sustainable development has disappeared. So far, none of these Assessments have been finalised (2003 has been set as the pilot year). Hence, it is too early to say

whether they will, on balance, contribute to promoting sustainable development. Up to now, the provisions for public participation have been disappointing.

In September 2002, the Economic and Social Committee organised the first of what should become the bi-annual hearings on the progress of the implementation of the Sustainable Development Strategy. The Commission's preparation was poor, the interest of high level Commission officials minimal, and the follow-up invisible.

One-and-a-half years after the Gothenburg Summit, President Prodi finally set up a high-level advisory body on sustainable development. It is led by former French Minister Strauss-Kahn.

During the European Convention Process, there was a risk of losing key environmental achievements of the Amsterdam Treaty. The Presidium had initially proposed to change wording on sustainable development, and to delete the provisions on environmental policy integration. In May, Commissioner Wällstrom launched the proposal of adding a Sustainable Development Protocol to the EU Constitution. This found support among EU Environment Ministers, and their joint letter to the Convention Presidium may have positively influenced the final result of the Convention. The Protocol still requires the official support of the Commission.

TO DO:

- a) For the 2004 Spring Summit, the Commission should produce a report that gives priority to the objective of sustainable development and gives a genuine indication on which economic and sectoral policies and/or specific incentives need to be changed in order to fulfil this objective. This report should inform the Heads of Government on i) the progress achieved with regards to the objective of halting the decline of biodiversity by 2010 (Gothenburg) ii) the scale and trends in the exposure of human bodies and nature to chemicals and iii) the progress in decoupling waste production from economic growth. This should be accompanied by a clear action plan for Member States to address these three key issues, together, where possible, with the Commission.
- b) The Integrated Impact Assessment for the Commission's major proposals must be done in an ambitious way, i.e. pro-sustainable development, with involvement of non-governmental organisations.

10.2 SUSTAINABLE DEVELOPMENT IN EXTERNAL POLICIES

PAST ACTION:

The EU's funding and technical assistance programmes for developing countries, set for the periods 2000 to 2004/2007, lack any serious analytical assessment of the role of the extraction of natural resources and of future environmental challenges. At best, they stress the need for environmental impact assessments of infrastructure projects. Up to 5 billion Euro per year are transferred mainly through the African Latin America funds (ALA) and European Development Fund (EDF). The current review process of these programmes is intended to bring them in line with the EU's sustainable development objectives, as decided at the 2001 Gothenburg European Summit and developed at the 2002 UN World Summit in Johannesburg (WSSD). However, there has been poor consultation and co-ordination within the Commission (between DG External Relations, DG Trade, DG Development, and DG Environment) as well as between the Commission's EuropeAid Cooperation Office and representatives of civil society. As a result, there is no common strategy to address the issue of sustainable use of natural resources.

TO DO:

- a) In the ongoing review of the EU's funding and technical assistance programmes for developing countries, the Commission should focus on the conservation and management of natural resources. Generally, the connections between poverty, development and environment should be highlighted and addressed in development programmes.
- b) The Commission should better co-ordinate all the relevant services involved. The Commission should also consult environmental and development organisations in partner countries to seek their advice, experience and skills when reviewing country and regional strategy papers.
- c) The proposed ALA Regulation should be revised to include the environment at the same level as the social and economic priorities. A minimum of 10% of funds should be dedicated to the integration of environmental aspect in national or regional development policies.

11. TRADE

PAST ACTION:

At the UN World Summit for Sustainable Development in Johannesburg (August 2002), the Commission, including Commissioner Wallström and Lamy, missed the opportunity to clearly affirm the authority and autonomy of Multilateral Environmental Agreements (MEAs) in relation to WTO rules. Instead, the Commission left it to the WTO to negotiate this relationship with no foreseeable positive outcome.

Despite widespread concerns by civil society groups and developing countries about the social and environmental impacts of a future WTO investment agreement, the Commission still promotes this idea as governments prepare for the upcoming WTO Ministerial Conference in Cancun in September 2003.

In the WTO's General Agreement on Trade in Services, the Commission argued that national regulations in all services sectors, including environmentally sensitive sectors such as energy, transport, tourism, water and waste management, must 'not be more burdensome than necessary to ensure the quality of the service'. Civil society groups reject this so-called 'necessity test' as it constrains the government's ability to regulate in favour of environmental and public interest.

Since the publication of the Green Paper on Corporate Social Responsibility in July 2002, the European Commission has not undertaken significant new initiatives on corporate accountability to promote binding rules either at EU or international level.

On Commissioner Lamy's initiative, the Commission has conducted a number of Sustainability Impact Assessments on bilateral, regional and global trade negotiations.

TO DO:

- a) As requested by the European Parliament in its resolution on preparations for the WTO Conference in Cancun, the Commission should launch an independent initiative to discuss the relationship between trade and environmental regimes, outside of the WTO, with the aim to strengthen MEAs and their dispute settlement mechanisms.
- b) The Commission should take the lead in calling for fundamental changes to the world's trading system in line with the EU's sustainable development and human rights objectives. Initially, the Commission should withdraw plans to expand the WTO agenda with new proposals such as negotiations on investment, competition

and government procurement. While global rules on these sectors are needed, the WTO is not the right forum to develop them. Instead, the Commission should initiate binding corporate accountability legislation in the EU and promote it at the UN level.

- c) Regarding WTO negotiation on services, the Commission should exclude any services related to natural resource extraction (water, energy) from the negotiations and remove necessity test provisions.
- d) Finally, the Commission should further promote Sustainability Impact Assessments prior to any new trade agreement, and guarantee that the outcomes will be fully taken into account in the EU policy-making process.

12. WASTE & PRODUCT POLICY

PAST ACTION:

Waste policy continues to be one of the Prodi Commission and Commissioner Wallström's biggest failures. As the *Green 8* stated in their 2002 mid-term review, this Commission lacks any ambition to prepare new instruments to tackle the growing waste problem. Instead, it keeps postponing the adoption of proposals, or drops them altogether. Over the past 12 months some Commission services, notably Commissioner Liikanen's DG Enterprise, further supported industry's attempt to de-regulate EU waste law whilst preventing the adoption of meaningful measures to ease the environmental impact of waste consumer products. This resulted, for example, in excluding environmentally ambitious targets from the revision of the Packaging Directive. Other waste management proposals, notably on sludge, waste prevention targets and PVC, have been further delayed. Finally, the June 2003 Communication on Integrated Product Policy (IPP) lacked a timetable as well as a legislative framework necessary for environmental improvements in product design.

On a slightly more positive note, Commissioner Wallström was successful in presenting a 'Communication Towards a Thematic Strategy on the Prevention and Recycling of Waste', which rightly focused on prevention rather than de-regulation. However, given the failure of this Commission to follow up on its public consultation on PVC, it is questionable whether this new initiative will result in anything concrete.

TO DO:

- a) The Commission should live up to its promise to define concrete objectives for waste prevention and recycling.
- b) The Commission should also present three important waste management measures that have been stalling since 2001: the Directive on biodegradable waste, the Directive on sludge, and a legislative proposal to tackle the PVC waste problem.

13. TRANSPORT

PAST ACTION:

The Commission did not perform well on transport in the first half of its term. With the exception of maritime safety (see above), its record on transport policy over the last year has deteriorated further. Commissioner de Palacio's policy making lacked transparency and was environmentally regressive. In 2001, Heads of state and government singled out transport as one of four priority areas where integration of

environmental aspects needed to be accelerated. They agreed at the Gothenburg Summit on the need to decouple transport growth and GDP growth. This would be in line with the EC Treaty requirement to integrate environmental considerations in all EU policies. Commissioner de Palacio's services have so far failed to deliver a promised proposal that would make transport prices reflect their real cost to society: although the Commission's 2003 work programme promised a framework for infrastructure pricing, this now appears to have been postponed indefinitely. Commissioner Wallström failed to counter the lack of environmental concern displayed by Commissioner de Palacio.

TO DO:

- a) The Commission should ensure that the imminent revision of the Eurovignette Directive on road freight transport allows differentiated road pricing according to environmental performance. Member States' governments should use such revenue for environmentally and socially valuable purposes, including public transport and hospitals.
- b) Before it leaves office, this Commission should at least start to develop quantified environmental targets for transport, based on indicators developed by the European Environment Agency in its work on TERM (transport and environment reporting mechanism).
- c) The Commission should also adopt the framework directive on infrastructure pricing, notwithstanding the reluctance of Commissioner de Palacio to work on this issue.
- d) In its development of transport policy, the Commission should ensure involvement of all stakeholders, including environmental NGOs.

III One year to go – the summary ‘to do’ list for the final year of office

1. Climate	<ul style="list-style-type: none"> ◆ Continue to support the integrity of the EU emissions trading system based on domestic action. ◆ Push for long-term targets on emissions reductions. ◆ Propose Fluorinated Gas Regulation with phase out dates.
2. Agriculture	<ul style="list-style-type: none"> ◆ Put forward sustainable proposals on specific agricultural commodities. ◆ Propose strategies on pesticide use and soil protection.
3. GMOs	<ul style="list-style-type: none"> ◆ Address the issue of contamination of conventional and organic crops by the release of GMOs.
4. Maritime Safety	<ul style="list-style-type: none"> ◆ Stimulate new legislation on liability for maritime transport.
5. Environmental Liability	<ul style="list-style-type: none"> ◆ Facilitate an effective compromise between the European Parliament and the Council in the further development of the legislative process.
6. Chemicals	<ul style="list-style-type: none"> ◆ Amend and adopt the ‘REACH’ proposal, requiring substitution of hazardous chemicals with safer alternatives.
7. Energy (Energy Efficiency, Renewables, Hydrogen, and Nuclear)	<ul style="list-style-type: none"> ◆ Lead Johannesburg renewables coalition towards binding renewables targets. ◆ Propose new and revise existing legislation to improve energy efficiency. ◆ Keep the commitment to 100% green hydrogen. ◆ No promotion of nuclear power.
8. Nature protection	<ul style="list-style-type: none"> ◆ Adopt the lists of Sites of Community Importance. ◆ Ensure full implementation of existing legislation, in new as well as current Member States. ◆ Ensure co-financing for Natura 2000 network.
9. Public Participation	<ul style="list-style-type: none"> ◆ Deliver legislation to fully comply with the Aarhus Convention.
10. Sustainable development	<ul style="list-style-type: none"> ◆ For the 2004 Spring Summit, put forward a report that puts sustainable development as the central objective and indicates the necessary changes to sectoral policies. ◆ Revise the proposed ALA Regulation to include the environment at the same level as the social and economic priorities.
11. Trade	<ul style="list-style-type: none"> ◆ Develop a sustainable trading approach for all trade negotiations at bilateral, regional and global level.
12. Waste and Product Policy	<ul style="list-style-type: none"> ◆ Stop blocking legislative proposals on sludge, biowaste and PVC.
13. Transport	<ul style="list-style-type: none"> ◆ Adopt Framework Directive on infrastructure pricing.

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